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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2051]

PART 199—MINERALS SUBJECT TO LEASE UNDER SPECIAL LAWS

Applicability of Existing Regulations

Section 199.64 is amended to read as follows:

§ 199.64 Existing regulations applicable.

To the extent that they are applicable and not inconsistent with §§ 199.61 to 199.65, the leasing of minerals under the act of June 30, 1950, shall be governed by §§ 200.32 to 200.51 inclusive, of this chapter. Any lease or permit issued under §§ 199.61 to 199.65 shall state that it is subject to the terms and provisions of the act of June 30, 1950.

FRED A. SEATON,
Secretary of the Interior.

AUGUST 25, 1960.

[F.R. Doc. 60-8237; Filed, Sept. 2, 1960; 8:47 a.m.]

Published in 25 F.R. September 3, 1960 - Effective upon publication

Circular Distribution List

GPO 899771

TITLE 43—[illegible]

Chapter I—[illegible] ment, [illegible]

Sec.
§ 160.1 Statutory authority.
§ 160.2 Definitions.
§ 160.3 Classes of applicants; preference rights.
§ 160.4 Qualifications of applicants.
§ 160.5 Application and lease.
§ 160.6 No right conferred by application prior to lease.
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§ 160.9 [illegible]
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§ 160.11 [illegible]
§ 160.12 [illegible]
§ 160.13 [illegible]
§ 160.14 [illegible]
§ 160.15 [illegible]
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§ 160.17 [illegible]
§ 160.18 [illegible]
§ 160.19 [illegible]
§ 160.20 [illegible]
§ 160.21 [illegible]
§ 160.22 [illegible]
§ 160.23 [illegible]

Circular 2052
replaced by 2056
2056 replaced by 2075
March, 1962

[illegible]

REPRINT October [illegible], 1960 - Part 160, 43 CFR
Circular Distribution [illegible]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular 2052

PART 160—GRAZING LEASES

Sec.
§ 160.1 *Statutory authority.*
§ 160.2 *Definitions.*
§ 160.3 *Classes of applicants; preference rights.*
§ 160.4 *Qualifications of applicants.*
§ 160.5 *Application and lease.*
§ 160.6 *No right conferred by application, prior to lease.*
§ 160.7 *Protests.*
§ 160.8 *Leases of withdrawn or reserved lands; preference right leases for lands restored from withdrawal.*
§ 160.9 *Action on defective application or where the lands applied for are not subject to grazing leasing.*
§ 160.10 *Disposition of protests and conflicting applications.*
§ 160.11 *Reduction in leased area; adjustment of grazing use to conform with changes in grazing capacity.*
§ 160.12 *Leased lands subject to disposition; compensation to lessee for loss of improvements.*
§ 160.13 *Access to leased lands; temporary closing of leased area.*
§ 160.14 **Rentals; schedule of grazing fees; billing notices; effect of failure to pay.**
§ 160.15 *Term of lease.*
§ 160.16 *Application for renewals.*
§ 160.17 *Construction and maintenance of improvements*
§ 160.18 *Removal of improvements.*
§ 160.19 *Cancellation*
§ 160.20 *Inspection of leased premises.*
§ 160.21 *Assignment of lease; subleases.*
§ 160.22 *Pledge of leases as security for loans; applications for extension of lease by borrower-lessee.*
§ 160.23 *Appeals; filing.*

§ 160.1 *Statutory authority.* **Section 15 of the act of June 28, 1934 (48 Stat. 1275), as amended, authorizes the Secretary of the Interior to lease for grazing purposes vacant, unappropriated, and unreserved public lands outside of established grazing districts in the continental United States only. Grazing leases for other public lands intermingled with the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant lands which are located west of the Cascade Mountain Range Divide, or in and west of Range 5 East, or west of Klamath Lakes and Link River in Ts. 36 to 41 S., Rs. 6 to 9 E., inclusive, Willamette Meridian, Oregon, will be issued pursuant to and will be governed by the provisions of Part 115 of this chapter.**

§ 160.2 *Definitions.* (a) "Secretary" means Secretary of the Interior.

(b) "Director" means Director, Bureau of Land Management.

(c) "State Supervisor" means the proper State Supervisor, Bureau of Land Management.

(d) "Manager" means manager of the proper land office. Where there is no land office, it means the Director, Bureau of Land Management.

(e) "Signing Officer" means the Government official who has been duly authorized to issue a grazing lease.

(f) "Field Office" means any office of the Bureau of Land Management, including the land office, near the lands applied for and in the State in which such lands are situated. If there is no land office or other field office in the State, it means the office of the Director, Bureau of Land Management, Washington 25, D. C.

(g) "The act" means the act of June 28, 1934 (48 Stat. 1269), as amended.

§ 160.3 *Classes of applicants; preference rights.* The act, as amended, provides for the issuance of grazing leases to classes of applicants in the following order:

(a) Preference-right leases to applicants who are the owners, homesteaders, lessees, or other lawful occupants of lands contiguous to or cornering on an isolated or disconnected tract embracing 760 acres or less [1] for the whole of such tract, upon the terms and conditions prescribed by the Secretary, provided the preference-right is asserted during a period of 90 days after such tract is offered for leases.[2]

(b) Preference-right leases to applicants who are owners, homesteaders, lessees, or other lawful occupants of contiguous lands to the extent necessary to permit the proper use of such contiguous lands.

(c) Leases where no preference-right applicant is involved.

§ 160.4 *Qualifications of applicants.* An applicant for a grazing lease is qualified if the applicant

(a) Is a citizen of the United States, or

(b) Has filed a declaration of intention to become a citizen: *Provided,* That an applicant who has filed such declaration but has not filed a petition for naturalization before a court of competent jurisdiction within seven years from the date of filing the declaration or, having filed such petition, has failed to attain citizenship within a reasonable time thereafter and is unable to show any satisfactory reason for such failure, shall be disqualified to receive a grazing lease or any renewal of an existing lease until he has actually attained citizenship, or

(c) Is a group, association, or corporation which is authorized to conduct business under the laws of the State in which the lands applied for are located and the controlling interest in which is vested in a citizen or citizens or persons who would be qualified as individual applicants under paragraphs (a) and (b) of this section.

§ 160.5 *Application and lease.* (a) An application for lease shall be executed in triplicate on combined application and lease form (4–721) and filed in triplicate in any field office of the Bureau of Land Management in the state in which the lands applied for are situated.[3] The applicant's signature to the application shall be considered to be his signature to and his acceptance of the lease when executed by the signing officer, without prejudice to the applicant's right to appeal from the disallowance of his application as to any part of the lands applied for or from the issuance of a lease for a shorter term than that applied for.

(b) A filing fee of $10 will be charged for each grazing lease application, including an application arising out of the assignment of leased lands, when it embraces in whole or in part lands which are not already under lease by the applicant or by the assignor on the date of filing such application.

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[1] Where the lands applied for include the even-numbered sections within the limits of a railroad grant, even though in the aggregate such lands exceed 760 acres, each such section will be considered as an isolated or disconnected tract within the meaning of this provision. The difference between the higher preference right accorded under this paragraph and the preference accorded under paragraph (b) of this section is that the applicant is not required to demonstrate that the public lands are necessary for the proper use of the contiguous or cornering lands, except where there are conflicting applications of the same class of applicants.

[2] By Departmental Notice of July 31, 1937, all vacant, unreserved and unappropriated public lands, exclusive of Alaska, not included in an established grazing district, were then offered for lease under section 15; all lands not then subject to lease under section 15 because of their appropriation or reservation, were offered for lease as of the date any such lands first became subject to lease.

[3] 18 U. S. C. 1001 makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

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Circular Distribution List

§ 160.6 *No right conferred by application, prior to lease.* The filing of an application will not segregate the land applied for from application by other persons for a grazing lease or from other disposition under the public land laws. As the issuance of a lease is discretionary, the filing of an application for a lease will not in any way create any right in the applicant to a lease, or to the use of the lands applied for pending the issuance of a lease. Any such unauthorized use constitutes a trespass.

§ 160.7 *Protests.* Protests against the approval of an application for a lease should be filed in the same manner and number of copies as applications for a grazing lease, contain a complete disclosure of all facts upon which the protest is based, and describe the lands involved in such protest, and should be accompanied by evidence of service of a copy of the protest on the applicant. If the protestant desires to lease all or part of the land embraced in the application against which the protest is filed, the protest should also be accompanied by an application for a grazing lease.

§ 160.8 *Leases of withdrawn or reserved lands; preference right leases for lands restored from withdrawal.* (a) The signing officer may issue leases for public lands withdrawn for resurvey, or withdrawn and reserved in aid of legislation, or for power sites, classification or other public purposes,[4] if the use of the land for grazing is not inconsistent with the purposes of the withdrawal. Lands included in stock driveway and public water reserve withdrawals may be leased in accordance with the § 295.7 (c) of this chapter. Any lease issued covering withdrawn lands must contain the stipulations which have been prescribed for the protection and use of the land for the purpose for which it was withdrawn or reserved.

(b) Where public lands are restored from a withdrawal and the signing officer determines that a grazing lease for the lands may be issued, the party using such lands or part thereof for grazing purposes under authority of the agency which had jurisdiction over the land immediately prior to their restoration, shall have a superior preference right to lease the restored lands previously used by him. The preference right must be asserted and an application for lease on combined application and lease Form 4–721 (see § 160.5) must be filed not more than 90 days after the date of signing of the order of revocation of the withdrawal, or not more than 90 days after the end of the current lease year under which the land is being used, whichever is the later. The application must be accompanied by a copy of the prior lease, license, permit or other authority upon which the preference claim is based. The new lease will be dated as of the first day following the end of such current lease year, or as of the date of its issuance, in the discretion of the signing officer and for such term as he may determine.

§ 160.9 *Action on defective application or where the lands applied for are not subject to grazing leasing.* Upon the filing of any application, the officer receiving it may require any defects in the application to be cured or additional information to be provided. The signing officer may reject any application if the applicant fails to cure defects in the application within the time allowed, which period shall not be less than thirty days from the date of receipt of notice of such defects by the applicant. If the application must be rejected because of the status of the land for which application is made as where land is in an allowed entry, otherwise appropriated or reserved and not subject to lease under the act, or not public land, a manager, if his office has land status, or a signing officer shall reject the aplication.

§ 160.10 *Disposition of protests and conflicting applications.* (a) The lease will be executed by the signing officer and transmitted to the lessee only after final action is taken on any protests or timely appeals which may have been filed. The lease will provide for an allowance of forage for wildlife, and within the discretion of the signing officer the number of livestock to be grazed, proper grazing season or reservations for authorized trailing across the land, and will contain the standard provisions set forth in the combined application and lease form, together with any other terms, conditions, or reservations which the signing officer in his discretion may deem necessary and proper.

(b) In those cases where more than one applicant applies for the same land and where it appears that a division of the lands should be made, such conflicting applicants will be given an opportunity to agree to a division of the lands prior to a determination by the signing officer as to the disposition of such conflicting applications or division of the lands.

(c) After a division of the range has been made either by agreement between applicants which is acceptable to the signing officer or by determination of the signing officer where there is no acceptable agreement, any conflicting applications or protests filed subsequent thereto will be rejected.

§ 160.11 *Reduction in leased area; adjustment of grazing use to conform with changes in grazing capacity.* The leased area may be reduced if it is determined that such area is required for the protection of sources of water supply to communities, or for camping places, stock driveways, roads and trails, or town sites, or for feeding grounds near communities for the use of domestic livestock or near the slaughtering or shipping points for use of stock to be marketed or for other public purposes; the authorized grazing use may be adjusted to conform to changes in grazing capacity estimates. In the case of any such reduction or adjustment, a proportionate adjustment will be made in the rental for the lease years commencing subsequent to the notice of such reduction or adjustment.

§ 160.12 Lease lands subject to disposition; compensation to lessee for loss of improvements.

(a) Lands embraced in a grazing lease are subject to disposition under the provisions of the Act of June 28, 1934 (48 Stat. 1272, 1274), as amended, or other public land laws. Before any application for such disposition is allowed, evidence must be furnished that the applicant has agreed to compensate the lessee and the United States for any grazing improvements placed on the lands under the authority of the lease, permit, or cooperative agreement in an amount and manner to be mutually agreed upon. If the parties are unable to agree as to the amount, manner and time for compensation for such improvements, the amount, manner and time shall be fixed by the authorized officer. The failure of the applicant to comply with the agreement or the conditions fixed by the authorized officer shall be just cause for cancellation of any right or interest in the lands acquired by the applicant by reason of the allowance of his application.

§ 160.13 *Access to leased lands; temporary closing of leased area.* (a) The issuance of a grazing lease does not alter or restrict the right of access across the leased lands by licensed hunters or fishermen or restrict their right to hunt and fish on such lands in accordance with the laws of the United States or of the state in which the lands are located, nor may the lessee interfere with such rights. Nor shall such lease restrict or limit prospecting, locating, developing, mining or patenting the mineral resources in the leased lands; miners, prospectors and mineral lessees of the United States and all other authorized persons shall be entitled to enter the leased lands.

(b) The State Supervisor, in his discretion, may close temporarily to grazing portions of the leased lands whenever, because of depletion of the vegetal cover due to drought, epidemic, fire, or any other cause, such action is necessary to restore the forage on the range to its normal condition. Such temporary closing will not operate to exclude such lands from the lease.

§ 160.14 Rentals; schedule of grazing fees; billing notices; effect of failure to pay.

(a) The annual rental charge for the use of the leased land will be based on the number of acres under lease, the estimated grazing capacity in AUMs (animal unit months), and the rate per AUM indicated in the then-current schedule of grazing fees established by the Director, Bureau of Land Management. The schedule of grazing fees will be established and may be modified, revised, or amended as the Director may determine from time to time and notice thereof shall be published in the FEDERAL REGISTER. The schedule rate will be effective (1) immediately as to new leases issued after date of publication; (2) 30 days after publication as to existing leases, the rental period of which begins after the 30-day period. The minimum rental on a lease shall not be less than $1 per annum.

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[4] Certain lands withdrawn for reclamation purposes are, pursuant to the cooperative agreement of February 28, 1945, between the Bureau of Reclamation and the Bureau of Land Management, leased in accordance with principles of section 15 leases, under authority of subsection (I) of section 4, act of December 5, 1924 (43 Stat. 703, 43 U. S. C. sec. 501.) Those lands withdrawn for reclamation purposes which are not subject to the Cooperative Agreement of February 28, 1945, will, upon restoration from the reclamation withdrawal become subject to the provisions of paragraph (b) of this section.

(b) Rental groups: (1) Where the rental charge for a new lease is $50 or less for the full term of the lease, the entire amount shall be paid in advance and the rental charges will not be revised during the term of the lease. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in §§ 160.11 and 160.12;

(2) Where the rental for the entire lease term exceeds $50 and the rental for the first three-year period is $100 or less, the total amount for such three-year period shall be paid in advance. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in §§ 160.11 and 160.12. Rental charges may be revised at the end of each three-year period based on the grazing fee schedule then in effect. Billing notices will be issued prior to the termination of each three-year period and the rental is due and payable upon receipt of the billing notice;

(3) Where the amount of the rental charge for the first three-year period would exceed $100, the rental shall be charged and paid annually based on the then effective grazing fee schedule. A billing notice for the amount of such annual rental will be sent each lessee in advance and is due and payable upon receipt. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in §§ 160.11 and 160.12.

(c) Effect of failure to pay: The first rental payment required under a proposed lease in accordance with this section shall be made within 10 days from receipt of the lease form; if not paid within such time the lease shall be null and void and of no effect and all rights of the proposed lessee thereunder or under the application upon which it is based shall be considered as terminated. Subsequent rental payments for succeeding lease periods as required by paragraph (b) (2) or (3) of this section are payable in advance. In any event, if such payment is not received in the proper office by the last day of the current lease period, or within 10 days of lessee's receipt of the billing notice, whichever is the later, then the lease shall be considered as cancelled and all rights thereunder terminated as of the end of such current lease period.

(d) No refund of rentals properly paid in accordance with the regulations in this part and the terms of the lease will be made because of a failure to use the grazing privileges granted by the lease, except that during periods of range depletion due to severe drouth or other natural causes or in case of a general epidemic of disease during the life of the lease the Director will in his discretion remit, refund, reduce in whole or in part, or postpone the payment of rentals for such period of depletion or general epidemic.

§ 160.15 *Term of lease.* A lease may be issued for a period of not more than 10 years. Renewals may be for periods of not more than 10 years, upon such terms and conditions as may then be prescribed.

§ 160.16 *Application for renewals.* An application for renewal of lease should be executed and filed in triplicate on the combined application and lease form (4–721) at least 90 days prior to the expiration of the lease. The application may also include a request for the consolidation of other outstanding grazing leases held by the lessee. Such application does not confer on the lessee any preference right to a renewal but will, however, authorize the exclusive grazing use of the lands by the lessee in accordance with the provisions of the lease pending final action on the application for renewal.

§ 160.17 *Construction and maintenance of improvements*—(a) *Permit required.* After the issuance of a lease, the lessee may fence the lands or any part thereof, develop water by wells, tanks, water holes, or otherwise, and make or construct other improvements for grazing or stock raising purposes, so long as such improvements do not impair the value of the lands or interfere with other uses: *Provided,* That a permit or cooperative agreement is obtained under the procedure set forth in this section. The lessee will be required to comply with the provisions of the laws of the state in which the leased lands are located with respect to the cost and and maintenance of fences.

(b) *Applications for permits and cooperative agreements.* Applications for permits, cooperative agreements, or arrangements to construct and maintain range improvements shall set forth the location of such improvements by legal subdivision of the public land survey, the necessity, use, cost, and description of such improvements, item by item, shall designate the time and manner of their construction, the period of use, the method of operation, protection, repair, removal, or other disposition, and shall include any other pertinent information. When necessary to explain properly the improvements and matters connected therewith, the application shall be accompanied by a sketch of the improvements with specifications and a map showing the location of the improvements. Applications for a permit shall be made on Form 4–1115 and shall be filed in triplicate with the signing officer. Application for a cooperative agreement shall be made on Form 4–1119.

(c) *Action on the application.* Action will be taken on the application by the signing officer. If the application is approved, the signing officer will issue a permit or enter into a cooperative agreement for the construction and maintenance of the improvements which have been approved.

§ 160.18 *Removal of improvements.* (a) Upon the expiration of the lease or its earlier termination, the signing officer may in his discretion and upon written application filed by the lessee not more than 30 days after date of such expiration or termination, require a proposed subsequent lessee, prior to the execution of a new lease, to agree to compensate the lessee for any grazing improvements of a permanent nature that have been placed upon the leased lands under authority of a section 15 lease executed prior to November 4, 1948, or thereafter, under a permit issued under § 160.17 (b). The amount of such compensation shall be determined in accordance with the procedure set forth in § 160.12. The failure of the subsequent lessee to pay the lessee in accordance with such agreement shall be just cause for cancellation of the subsequent lessee's lease.

(b) The lessee will be allowed three months from the date of expiration or termination of the lease within which to remove such improvements as are not disposed of in the manner set forth above; if not removed or otherwise disposed of within the said period, such improvements shall become the property of the United States. No improvements may be removed at any time the lessee is in default with respect to the lease.

§ 160.19 Cancellation.

Except as otherwise provided in § 160.14, if the lessee shall fail to comply with any of the provisions of the regulations in this part or of the lease or of any cooperative agreement (Form 4–1119) entered into with the Bureau of Land Management for the benefit of the lease, and such default shall continue for 30 days after service of written notice thereof, or if the lease was issued improperly through error with respect to a material fact or facts, the lease may be terminated and cancelled by the authorized officer.

§ 160.20 *Inspection of leased premises.* The land described in the lease shall be subject to inspection at all reasonable times by duly authorized representatives of the Department of the Interior. Other Federal agents, as well as game wardens, shall be permitted access to the lands in connection with necessary official business.

§ 160.21 *Assignment of lease; subleases.* No part of the leased lands may be subleased. The lessee may assign the lease only with the consent of the signing officer. The proposed assignment must be filed with the signing officer within 90 days from date of its execution, and shall contain all the terms and conditions agreed upon between the parties, and the assignee's agreement to be bound by the terms of the lease, together with triplicate copies of the combined application and lease form (4–721) properly executed by the assignee, setting forth all the data required thereby. No assignment will be recognized nor will it confer on the assignee any rights to the leased area until a lease therefor is issued to him.

§ 160.22 *Pledge of leases as security for loans; applications for extension of lease by borrower-lessee.* (a) A lease may be pledged as security for a loan of $500 or more from a lending agency if the loan is for the purpose of furthering the lessee's livestock operations. Before a loan is made, the lending agency may obtain from the authorized officer a written statement concerning the status of the grazing lease and other pertinent information relating thereto. A service charge of $10 will be made for searching the records to furnish such information, except that Federal and State lending agencies shall be exempt from the charge.

(b) An application by a borrower-lessee for an extension of the lease term should be executed and filed in triplicate on combined application and lease form (4–721). When it appears that such extension will be in accordance with applicable law and not contrary to the public interest, the signing officer in his discretion may extend the lease for a period not to exceed 10 years from the date of the loan, subject to such terms and conditions as are then provided by the regulations in this part, and by the signing officer.

(c) If the property of the lessee which was the basis for the granting of a preference right is acquired by the lending agency through foreclosure or otherwise, such agency or its occupants of the property or a purchaser of the property from the agency, if qualified, may apply on combined application and lease form (4–721) to be recognized as the new lessee. If, in selling the property, the lending agency takes back a mortgage on the property, the agency will receive the same consideration as in the case of an original loan.

(d) Where a lending agency files in the office of the authorized officer notice that it has made a loan and has accepted a grazing lease as security therefor, in conformity with the provisions of this section, such agency will be advised of any adverse action taken affecting the lease, but the failure to give timely notice of such adverse action shall impose no legal liability or obligation on the Bureau or any of its employees.

§ 160.23 *Appeals; filing.* An appeal from any decision rendered pursuant to §§ 160.1 to 160.23, inclusive, may be taken to the Director and the Secretary, in accordance with the rules of practice (Part 221 of this chapter). The appeal should be filed with the officer who rendered the decision.

This Circular replaces Circulars 1807, 1882, 1884, 1898, 1953
and 2014 and those parts of Circulars 1969 and 2046 relating
43 CFR, Part 160

GPO 901897

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER E—MINERAL LANDS

[Circular No. 2058]

PART 192—OIL AND GAS LEASES

Leasing of Certain Lands

replaced by circular 2048
4-20-61

Subparagraph (1) of paragraph (b) of § 192.9 is amended to read as follows:

§ 192.9 Leasing of wildlife refuge lands, game range lands and coordination lands.

* * * * *

(b) *Leasing policy and procedure.* (1) No offers for oil and gas leases covering wildlife refuge lands will be accepted and no leases covering such lands will be issued except as provided in subparagraph (2) of this paragraph. There shall be no drilling or prospecting under any lease heretofore or hereafter issued on lands within a wildlife refuge except with the consent and approval of the Secretary of the Interior with the concurrence of the Fish and Wildlife Service as to the time, place and nature of such operations in order to give complete protection to wildlife populations and wildlife habitat on the areas leased, and all such operations shall be conducted in accordance with the stipulations in the Bureau of Land Management stipulation form 4-1383, issued pursuant to this section.

FRED A. SEATON,
Secretary of the Interior.

DECEMBER 5, 1960.

[F.R. Doc. 60-11397; Filed, Dec. 8, 1960; 11:27 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular No. 2053]

PART 192—OIL AND GAS LEASES

Leasing of Certain Lands

replaced by
circular 2078
4-30-62

Subparagraph (1) of paragraph (b) of § 192.9 is amended to read as follows:

§ 192.9 Leasing of wildlife refuge lands, game range lands and coordination lands.

* * * * *

(b) *Leasing policy and procedure.* (1) No offers for oil and gas leases covering wildlife refuge lands will be accepted and no leases covering such lands will be issued except as provided in subparagraph (2) of this paragraph. There shall be no drilling or prospecting under any lease heretofore or hereafter issued on lands within a wildlife refuge except with the consent and approval of the Secretary of the Interior with the concurrence of the Fish and Wildlife Service as to the time, place and nature of such operations in order to give complete protection to wildlife populations and wildlife habitat on the areas leased, and all such operations shall be conducted in accordance with the stipulations in the Bureau of Land Management stipulation form 4-1383, issued pursuant to this section.

FRED A. SEATON,
Secretary of the Interior.

DECEMBER 1, 1960.

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 2054]

SUBCHAPTER K—MILITARY AND NAVAL SERVICE

PART 181—VETERANS', SOLDIERS' AND SAILORS' RIGHTS

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

PART 257—SALE OR LEASE OF SMALL TRACTS

§ 181.7 [Revocation]

§ 181.8 [Redesignation]

In order to eliminate from the regulations provisions which were authorized or required by said section, the following revisions are necessary: (1) § 181.7 is revoked in its entirety, § 181.8 is renumbered as § 181.7, and (2) § 257.5, paragraph (b) of § 257.7, § 257.8, paragraphs (c) and (e) of § 257.14, and paragraph (c) of § 257.18 are revised to read as follows:

§ 257.5 Preference rights of applicants.

Where public land is classified pursuant to an application on Form 4–776, which application was filed prior to the receipt by the land office of notice that the area was under consideration for small tract classification, the applicant is entitled to a preference right of lease or purchase, as the case may be, if (a) the land is thereafter classified for the type of site applied for; (b) the applicant agrees to conform his application to the area, classification, and dimensions of the tract as specified in the classification order; and (c) where the land is classified for direct sale, the applicant tenders the fair market value of the land when required.

* * * * *

§ 257.7 Drawing procedure.

(b) The classification or other order may require the filing of "Special Drawing Cards," Form 4–775b, in lieu of Application Form 4–776. Any person who has the necessary qualifications may obtain an official drawing entry card upon request to the land office manager. The request should designate the classification order by number. It should be accompanied by a stamped, self-addressed return envelope. Each successful entrant in a drawing will be furnished in duplicate Form 4–776, bearing the description of the tract allocated to him. The forms must be completely filled out, signed and returned, accompanied by the proper rental and fees within the time allowed by the authorized officer of the Bureau of Land Management. Where an entrant for any reason fails to comply with the requirements within the time allowed, the tract will become available to the alternate next in line in the drawing.

§ 257.8 Filing fee.

Every application on Form 4–776 must be accompanied by a filing fee of $10. No fee is required for the filing of a "Special Drawing Entry Card," Form 4–775b, but the fee is required of entrants who are successful in the drawing. No fee is required in connection with a bid in a sale at public auction. A fee of $10 is required with each application to purchase, based upon an outstanding lease and with each application for renewal or assignment of an outstanding lease. All filing fees will be retained by the Government.

§ 257.14 Public auctions.

* * * * *

(c) A bid sent by mail must be received at the place and within the time specified in the classification order. Each such bid must clearly state (1) the name and address of the bidder and (2) the specific tract, as described in the classification order, for which the bid is made. The envelope must be noted as required by the classification order.

* * * * *

(e) The person who submits the highest bid for each tract at the close of bidding, but not less than the minimum price, will be declared high bidder. If the high bidder meets the general requirements of a small tract applicant, he will be declared purchaser. Any person who is declared high bidder will automatically be disqualified from consideration for other tracts for which he may have submitted bids.

§ 257.18 Application following lease terminations and unsuccessful public auctions.

* * * * *

(c) The order will specify which one of the following methods will be used for disposing of the land: (1) Sale at public auction to the highest bidder in accordance with § 257.14; (2) a special drawing procedure indicated in paragraph (d) of this section.

(52 Stat. 609, as amended; interprets or applies R.S. 2478 and 58 Stat. 748, as amended; 43 U.S.C. 682a–e; 43 U.S.C. 282–284; 43 U.S.C. 1201)

The provisions eliminated from the regulations by this amendment became ineffective September 27, 1959, except with respect to unexpired preferences granted by orders issued prior to that date, and became completely ineffectve when rights and privileges under such orders were exhausted.

FRED A. SEATON,
Secretary of the Interior.

DECEMBER 5, 1960.

[F.R. Doc. 60–11502; Filed, Dec. 9, 1960; 8:48 a.m.]

Published in 25 F.R. December 10, 1960

Circular Distribution List

GPO 904506

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER A—ALASKA

[Circular No. 2055]

PART 76—STATE GRANTS

Miscellaneous Amendments

Sections 76.11(a), 76.12(a) and (d), 76.13(e), and 76.15(a) are amended all to read as follows:

§ 76.11 Statutory authority.

(a) The act of July 7, 1958 (72 Stat. 339–343), referred to in §§ 76.11–76.14 as "the act," grants to the State of Alaska the right to select, within 25 years from January 3, 1959, not to exceed 102,550,000 acres from the public lands in Alaska which are vacant, unappropriated and unreserved at the time of selection. The act of September 14, 1960 (74 Stat. 1024), defines vacant unappropriated, unreserved public lands in Alaska to include the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals or any specified mineral or minerals.

§ 76.12 Lands subject to selection; patents; minerals.

(a) The act as amended August 18, 1959 (73 Stat. 395), provides that any lease, permit, license, or contract issued under the Mineral Leasing Act of 1920 (41 Stat. 437; 30 U.S.C. 181 et seq.), as amended, or under the Alaska Coal Leasing Act of 1914 (38 Stat. 741; 30 U.S.C. 432 et seq.), as amended, referred to in this section as "the mineral leasing acts," shall have the effect of withdrawing the lands subject thereto from selection by the State, unless the State files an application to select such lands within a period of five years after January 3, 1959.

* * * * *

(d) (1) Where the State selects all the lands in a mineral lease, permit, license, or contract, issued under the mineral leasing acts of 1914 and 1920, the patent issued under the act will convey to the State all mineral deposits in the selected lands. Any such patent shall vest in the State all right, title, and interest of the United States in and to any such lease, permit, license, or contract that remains outstanding on the effective date of the patent, including the right to all rentals, royalties, and other payments accruing after that date under such lease, permit, license, or contract, and including any authority that may have been retained by the United States to modify the terms and conditions of such lease, permit, license, or contract. Issuance of patent will not affect the continued validity of any such lease, permit, license, or contract or any rights arising thereunder.

(2) Where the State selects a portion of the lands subject to a mineral lease, permit, license, or contract issued under the mineral leasing acts of 1914 and 1920, the patent issued under the act shall reserve to the United States the mineral or minerals subject to that lease, permit, license, or contract, together with such further rights as may be necessary to the full and complete enjoyment of all rights, priviliges, and benefits under or with respect to that lease, permit, license, or contracts. Upon the termination of the lease, permit, license, or contract, title to minerals so reserved to the United States shall pass to the State.

§ 76.13 Applications for selection.

* * * * *

(e) Section 76.9(a)(2) (iv), (v), and (vi) do not apply to the extent that an application embraces a reserved or retained interest. See § 76.11(a).

§ 76.15 State preference right of selection; waivers.

(a) The acts of July 28, 1956 (see § 76.7), and July 7, 1958 (see § 76.11), provide that upon the revocation of any order of withdrawal in Alaska, the order of revocation shall provide for a period of not less than 90 days before the date on which it otherwise becomes effective during which period the State of Alaska shall have a preferred right of selection under the acts of 1956 and 1958, except as against prior existing valid rights, equitable claims subject to allowance and confirmation, and other preferred rights of application confered by law.

FRED A. SEATON,
Secretary of the Interior.

DECEMBER 6, 1960.

[F.R. Doc. 60-11517; Filed, Dec. 8, 1960; 8:53 a.m.]

Published in 25 FR December 9, 1960
Circular Distribution List

This Circular replaces Circular 2029

GPO 904624

replaced by 2075

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular 2056

PART 160—GRAZING LEASES

Sec.

§ 160.1 *Statutory authority.*
§ 160.2 *Definitions.*
§ 160.3 *Classes of applicants; preference rights.*
§ 160.4 *Qualifications of applicants.*
§ 160.5 *Application and lease.*
§ 160.6 *No right conferred by application, prior to lease.*
§ 160.7 *Protests.*
§ 160.8 *Leases of withdrawn or reserved lands; preference right leases for lands restored from withdrawal.*
§ 160.9 *Action on defective application or where the lands applied for are not subject to grazing leasing.*
§ 160.10 *Disposition of protests and conflicting applications.*
§ 160.11 *Reduction in leased area; adjustment of grazing use to conform with changes in grazing capacity.*
§ 160.12 *Leased lands subject to disposition; compensation to lessee for loss of improvements.*
§ 160.13 *Access to leased lands; temporary closing of leased area.*
§ 160.14 **Rentals; schedule of grazing fees; billing notices; effect of failure to pay,**
§ 160.15 *Term of lease.*
§ 160.16 *Application for renewals.*
§ 160.17 *Construction and maintenance of improvements*
§ 160.18 *Removal of improvements.*
§ 160.19 *Cancellation*
§ 160.20 *Inspection of leased premises.*
§ 160.21 *Assignment of lease; subleases.*
§ 160.22 *Pledge of leases as security for loans; applications for extension of lease by borrower-lessee.*
§ 160.23 *Appeals; filing.*

§ 160.1 *Statutory authority.* Section 15 of the act of June 28, 1934 (48 Stat. 1275), as amended, authorizes the Secretary of the Interior to lease for grazing purposes vacant, unappropriated, and unreserved public lands outside of established grazing districts in the continental United States only. Grazing leases for other public lands intermingled with the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant lands which are located west of the Cascade Mountain Range Divide, or in and west of Range 5 East, or west of Klamath Lakes and Link River in Ts. 36 to 41 S., Rs. 6 to 9 E., inclusive, Willamette Meridian, Oregon, will be issued pursuant to and will be governed by the provisions of Part 115 of this chapter.

§ 160.2 *Definitions.* (a) "Secretary" means Secretary of the Interior.

(b) "Director" means Director, Bureau of Land Management.

(c) "State Supervisor" means the the proper State Supervisor, Bureau of Land Management.

(d) "Manager" means manager of the proper land office. Where there is no land office, it means the Director, Bureau of Land Management.

(e) "Signing Officer" means the Government official who has been duly authorized to issue a grazing lease.

(f) "Field Office" means any office of the Bureau of Land Management, including the land office, near the lands applied for and in the State in which such lands are situated. If there is no land office or other field office in the State, it means the office of the Director, Bureau of Land Management, Washington 25, D. C.

(g) "The act" means the act of June 28, 1934 (48 Stat. 1269), as amended.

§ 160.3 *Classes of applicants; preference rights.* The act, as amended, provides for the issuance of grazing leases to classes of applicants in the following order:

(a) Preference-right leases to applicants who are the owners, homesteaders, lessees, or other lawful occupants of lands contiguous to or cornering on an isolated or disconnected tract embracing 760 acres or less[1] for the whole of such tract, upon the terms and conditions prescribed by the Secretary, provided the preference-right is asserted during a period of 90 days after such tract is offered for leases.[2]

(b) Preference-right leases to applicants who are owners, homesteaders, lessees, or other lawful occupants of contiguous lands to the extent necessary to permit the proper use of such contiguous lands.

(c) Leases where no preference-right applicant is involved.

§ 160.4 *Qualifications of applicants.* An applicant for a grazing lease is qualified if the applicant

(a) Is a citizen of the United States, or

(b) Has filed a declaration of intention to become a citizen: *Provided,* That an applicant who has filed such declaration but has not filed a petition for naturalization before a court of competent jurisdiction within seven years from the date of filing the declaration or, having filed such petition, has failed to attain citizenship within a reasonable time thereafter and is unable to show any satisfactory reason for such failure, shall be disqualified to receive a grazing lease or any renewal of an existing lease until he has actually attained citizenship, or

(c) Is a group, association, or corporation which is authorized to conduct business under the laws of the State in which the lands applied for are located and the controlling interest in which is vested in a citizen or citizens or persons who would be qualified as individual applicants under paragraphs (a) and (b) of this section.

§ 160.5 *Application and lease.* (a) An application for lease shall be executed in triplicate on combined application and lease form (4–721) and filed in triplicate in any field office of the Bureau of Land Management in the state in which the lands applied for are situated.[3] The applicant's signature to the application shall be considered to be his signature to and his acceptance of the lease when executed by the signing officer, without prejudice to the applicant's right to appeal from the disallowance of his application as to any part of the lands applied for or from the issuance of a lease for a shorter term than that applied for.

(b) A filing fee of $10 will be charged for each grazing lease application, including an application arising out of the assignment of leased lands, when it embraces in whole or in part lands which are not already under lease by the applicant or by the assignor on the date of filing such application.

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[1] Where the lands applied for include the even-numbered sections within the limits of a railroad grant, even though in the aggregate such lands exceed 760 acres, each such section will be considered as an isolated or disconnected tract within the meaning of this provision. The difference between the higher preference right accorded under this paragraph and the preference accorded under paragraph (b) of this section is that the applicant is not required to demonstrate that the public lands are necessary for the proper use of the contiguous or cornering lands, except where there are conflicting applications of the same class of applicants.

[2] By Departmental Notice of July 31, 1937, all vacant, unreserved and unappropriated public lands, exclusive of Alaska, not included in an established grazing district, were then offered for lease under section 15; all lands not then subject to lease under section 15 because of their appropriation or reservation, were offered for lease as of the date any such lands first became subject to lease.

[3] 18 U. S. C. 1001 makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

REPRINT December 21, 1960 - Part 160, 43 CFR
Circular Distribution List

§ 160.6 *No right conferred by application, prior to lease.* The filing of an application will not segregate the land applied for from application by other persons for a grazing lease or from other disposition under the public land laws. As the issuance of a lease is discretionary, the filing of an application for a lease will not in any way create any right in the applicant to a lease, or to the use of the lands applied for pending the issuance of a lease. Any such unauthorized use constitutes a trespass.

§ 160.7 *Protests.* Protests against the approval of an application for a lease should be filed in the same manner and number of copies as applications for a grazing lease, contain a complete disclosure of all facts upon which the protest is based, and describe the lands involved in such protest, and should be accompanied by evidence of service of a copy of the protest on the applicant. If the protestant desires to lease all or part of the land embraced in the application against which the protest is filed, the protest should also be accompanied by an application for a grazing lease.

§ 160.8 *Leases of withdrawn or reserved lands; preference right leases for lands restored from withdrawal.* (a) The signing officer may issue leases for public lands withdrawn for resurvey, or withdrawn and reserved in aid of legislation, or for power sites, classification or other public purposes,[4] if the use of the land for grazing is not inconsistent with the purposes of the withdrawal. Lands included in stock driveway and public water reserve withdrawals may be leased in accordance with the § 295.7 (c) of this chapter. Any lease issued covering withdrawn lands must contain the stipulations which have been prescribed for the protection and use of the land for the purpose for which it was withdrawn or reserved.

(b) Where public lands are restored from a withdrawal and the signing officer determines that a grazing lease for the lands may be issued, the party using such lands or part thereof for grazing purposes under authority of the agency which had jurisdiction over the land immediately prior to their restoration, shall have a superior preference right to lease the restored lands previously used by him. The preference right must be asserted and an application for lease on combined application and lease Form 4-721 (see § 160.5) must be filed not more than 90 days after the date of signing of the order of revocation of the withdrawal, or not more than 90 days after the end of the current lease year under which the land is being used, whichever is the later. The application must be accompanied by a copy of the prior lease, license, permit or other authority upon which the preference claim is based. The new lease will be dated as of the first day following the end of such current lease year, or as of the date of its issuance, in the discretion of the signing officer and for such term as he may determine.

§ 160.9 *Action on defective application or where the lands applied for are not subject to grazing leasing.* Upon the filing of any application, the officer receiving it may require any defects in the application to be cured or additional information to be provided. The signing officer may reject any application if the applicant fails to cure defects in the application within the time allowed, which period shall not be less than thirty days from the date of receipt of notice of such defects by the applicant. If the application must be rejected because of the status of the land for which application is made as where land is in an allowed entry, otherwise appropriated or reserved and not subject to lease under the act, or not public land, a manager, if his office has land status, or a signing officer shall reject the aplication.

§ 160.10 *Disposition of protests and conflicting applications.* (a) The lease will be executed by the signing officer and transmitted to the lessee only after final action is taken on any protests or timely appeals which may have been filed. The lease will provide for an allowance of forage for wildlife, and within the discretion of the signing officer the number of livestock to be grazed, proper grazing season or reservations for authorized trailing across the land, and will contain the standard provisions set forth in the combined application and lease form, together with any other terms, conditions, or reservations which the signing officer in his discretion may deem necessary and proper.

(b) In those cases where more than one applicant applies for the same land and where it appears that a division of the lands should be made, such conflicting applicants will be given an opportunity to agree to a division of the lands prior to a determination by the signing officer as to the disposition of such conflicting applications or division of the lands.

(c) After a division of the range has been made either by agreement between applicants which is acceptable to the signing officer or by determination of the signing officer where there is no acceptable agreement, any conflicting applications or protests filed subsequent thereto will be rejected.

§ 160.11 *Reduction in leased area; adjustment of grazing use to conform with changes in grazing capacity.* The leased area may be reduced if it is determined that such area is required for the protection of sources of water supply to communities, or for camping places, stock driveways, roads and trails, or town sites, or for feeding grounds near communities for the use of domestic livestock or near the slaughtering or shipping points for use of stock to be marketed or for other public purposes the authorized grazing use may be adjusted to conform to changes in grazing capacity estimates. In the case of any such reduction or adjustment, a proportionate adjustment will be made in the rental for the lease years commencing subsequent to the notice of such reduction or adjustment.

§ 160.12 Lease lands subject to disposition; compensation to lessee for loss of improvements.

(a) Lands embraced in a grazing lease are subject to disposition under the provisions of the Act of June 28, 1934 (48 Stat. 1272, 1274), as amended, or other public land laws. Before any application for such disposition is allowed, evidence must be furnished that the applicant has agreed to compensate the lessee and the United States for any grazing improvements placed on the lands under the authority of the lease, permit, or cooperative agreement in an amount and manner to be mutually agreed upon. If such improvements have been constructed in whole or in part with Federal funds and are administered by the Bureau of Land Management, and the application for disposal is in satisfaction of any lieu or indemnity selection right of any State under R.S. 2275, as amended (43 U.S.C. 851), such application may be allowed in the discretion of the authorized officer without compensation to the United States for its share of the value of the improvements, if the authorized officer shall first determine that the grazing improvements are no longer used or needed by the United States for the purpose for which the improvements were constructed and that the probable salvage value is insufficient to warrant the expense of removal of the salvageable materials in such improvements. If the parties are unable to agree as to the amount, manner, and time for compensation for such improvements, the amount, manner, and time shall be fixed by the authorized officer. The failure of the applicant to comply with the agreement or the conditions fixed by the authorized officer shall be just cause for cancellation of any right or interest in the lands acquired by the applicant by reason of the allowance of his application.

(b) Where part of the leased lands are disposed of as provided by this section, the subsequent annual rental charges will be reduced proportionately to reflect the loss of the lands from the leasehold. Such reduced rentals shall apply to rentals for the lease years commencing subsequent to the notice of such reduction.

§ 160.13 *Access to leased lands; temporary closing of leased area.* (a) The issuance of a grazing lease does not alter or restrict the right of access across the leased lands by licensed hunters or fishermen or restrict their right to hunt and fish on such lands in accordance with the laws of the United States or of the state which the lands are located, nor may the lessee interfere with such rights. Nor shall such lease restrict or limit prospecting, locating, developing, mining or patenting the mineral resources in the leased lands; miners, prospectors and mineral lessees of the United States and all other authorized persons shall be entitled to enter the leased lands.

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[4] Certain lands withdrawn for reclamation purposes are, pursuant to the cooperative agreement of February 28, 1945, between the Bureau of Reclamation and the Bureau of Land Management, leased in accordance with principles of section 15 leases, under authority of subsection (I) of section 4, act of December 5, 1924 (43 Stat. 703, 43 U. S. C. sec. 501.) Those lands withdrawn for reclamation purposes which are not subject to the Cooperative Agreement of February 28, 1945, will, upon restoration from the reclamation withdrawal become subject to the provisions of paragraph (b) of this section.

(b) The **State Supervisor** , in his discretion, may close temporarily to grazing portions of the leased lands whenever, because of depletion of the vegetal cover due to drought, epidemic, fire, or any other cause, such action is necessary to restore the forage on the range to its normal condition. Such temporary closing will not operate to exclude such lands from the lease.

§ 160.14 Rentals; schedule of grazing fees; billing notices; effect of failure to pay.

(a) The annual rental charge for the use of the leased land will be based on the number of acres under lease, the estimated grazing capacity in AUMs (animal unit months), and the rate per AUM indicated in the then-current schedule of grazing fees established by the Director, Bureau of Land Management. The schedule of grazing fees will be established and may be modified, revised, or amended as the Director may determine from time to time and notice thereof shall be published in the FEDERAL REGISTER. The schedule rate will be effective (1) immediately as to new leases issued after date of publication; (2) 30 ys after publication as to existing ases, the rental period of which begins after the 30-day period. The minimum rental on a lease shall not be less than $1 per annum.

(b) Rental groups: (1) Where the rental charge for a new lease is $50 or less for the full term of the lease, the entire amount shall be paid in advance and the rental charges will not be revised during the term of the lease. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in §§ 160.11 and 160.12;

(2) Where the rental for the entire lease term exceeds $50 and the rental for the first three-year period is $100 or less, the total amount for such three-year period shall be paid in advance. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in §§ 160.11 and 160.12. Rental charges may be revised at the end of each three-year period based on the grazing fee schedule then in effect. Billing notices will be issued prior to the termination of each three-year period and the rental is due and payable upon receipt of the billing notice;

(3) Where the amount of the rental charge for the first three-year period would exceed $100, the rental shall be charged and paid annually based on the then effective grazing fee schedule. A billing notice for the amount of such annual rental will be sent each lessee in advance and is due and payable upon receipt. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in §§ 160.11 and 160.12.

(c) Effect of failure to pay: The first rental payment required under a proposed lease in accordance with this section shall be made within 10 days from receipt of the lease form; if not paid within such time the lease shall be null and void and of no effect and all rights of the proposed lessee thereunder or under the application upon which it is based shall be considered as terminated. Subsequent rental payments for succeeding lease periods as required by paragraph (b) (2) or (3) of this section are payable in advance. In any event, if such payment is not received in the proper office by the last day of the current lease period, or within 10 days of lessee's receipt of the billing notice, whichever is the later, then the lease shall be considered as cancelled and all rights thereunder terminated as of the end of such current lease period.

(d) No refund of rentals properly paid in accordance with the regulations in this part and the terms of the lease will be made because of a failure to use the grazing privileges granted by the lease, except that during periods of range depletion due to severe drouth or other natural causes or in case of a general epidemic of disease during the life of the lease the Director will in his discretion remit, refund, reduce in whole or in part, or postpone the payment of rentals for such period of depletion or general epidemic.

§ 160.15 *Term of lease.* A lease may be issued for a period of not more than 10 years. Renewals may be for periods of not more than 10 years, upon such terms and conditions as may then be prescribed.

§ 160.16 *Application for renewals.* An application for renewal of lease should be executed and filed in triplicate on the combined application and lease form (4–721) at least 90 days prior to the expiration of the lease. The application may also include a request for the consolidation of other outstanding grazing leases held by the lessee. Such application does not confer on the lessee any preference right to a renewal but will, however, authorize the exclusive grazing use of the lands by the lessee in accordance with the provisions of the lease pending final action on the application for renewal.

§ 160.17 *Construction and maintenance of improvements*—(a) *Permit required.* After the issuance of a lease, the lessee may fence the lands or any part thereof, develop water by wells, tanks, water holes, or otherwise, and make or construct other improvements for grazing or stock raising purposes, so long as such improvements do not impair the value of the lands or interfere with other uses: *Provided*, That a permit or cooperative agreement is obtained under the procedure set forth in this section. The lessee will be required to comply with the provisions of the laws of the state in which the leased lands are located with respect to the cost and and maintenance of fences.

(b) *Applications for permits and cooperative agreements.* Applications for permits, cooperative agreements, or arrangements to construct and maintain range improvements shall set forth the location of such improvements by legal subdivision of the public land survey, the necessity, use, cost, and description of such improvements, item by item, shall designate the time and manner of their construction, the period of use, the method of operation, protection, repair, removal, or other disposition, and shall include any other pertinent information. When necessary to explain properly the improvements and matters connected therewith, the application shall be accompanied by a sketch of the improvements with specifications and a map showing the location of the improvements. Applications for a permit shall be made on Form 4–1115 and shall be filed in triplicate with the signing officer. Application for a cooperative agreement shall be made on Form 4–1119.

(c) *Action on the application.* Action will be taken on the application by the signing officer. If the application is approved, the signing officer will issue a permit or enter into a cooperative agreement for the construction and maintenance of the improvements which have been approved.

§ 160.18 *Removal of improvements.* (a) Upon the expiration of the lease or its earlier termination, the signing officer may in his discretion and upon written application filed by the lessee not more than 30 days after date of such expiration or termination, require a proposed subsequent lessee, prior to the execution of a new lease, to agree to compensate the lessee for any grazing improvements of a permanent nature that have been placed upon the leased lands under authority of a section 15 lease executed prior to November 4, 1948, or thereafter, under a permit issued under § 160.17 (b). The amount of such compensation shall be determined in accordance with the procedure set forth in § 160.12. The failure of the subsequent lessee to pay the lessee in accordance with such agreement shall be just cause for cancellation of the subsequent lessee's lease.

(b) The lessee will be allowed three months from the date of expiration or termination of the lease within which to remove such improvements as are not disposed of in the manner set forth above; if not removed or otherwise disposed of within the said period, such improvements shall become the property of the United States. No improvements may be removed at any time the lessee is in default with respect to the lease.

§ 160.19 Cancellation.

Except as otherwise provided in § 160.14, if the lessee shall fail to comply with any of the provisions of the regulations in this part or of the lease or of any cooperative agreement (Form 4–1119) entered into with the Bureau of Land Management for the benefit of the lease, and such default shall continue for 30 days after service of written notice thereof, or if the lease was issued improperly through error with respect to a material fact or facts, the lease may be terminated and cancelled by the authorized officer.

§ 160.20 *Inspection of leased premises.* The land described in the lease shall be subject to inspection at all reasonable times by duly authorized representatives of the Department of the Interior. Other Federal agents, as well as game wardens, shall be permitted access to the lands in connection with necessary official business.

§ 160.21 *Assignment of lease; subleases.* No part of the leased lands may be subleased. The lessee may assign the lease only with the consent of the signing officer. The proposed assignment must be filed with the signing officer within 90 days from date of its execution, and shall contain all the terms and conditions agreed upon between the parties, and the assignee's agreement to be bound by the terms of the lease, together with triplicate copies of the combined application and lease form (4–721) properly executed by the assignee, setting forth all the data required thereby. No assignment will be recognized nor will it confer on the assignee any rights to the leased area until a lease therefor is issued to him.

§ 160.22 *Pledge of leases as security for loans; applications for extension of lease by borrower-lessee.* (a) A lease may be pledged as security for a loan of $500 or more from a lending agency if the loan is for the purpose of furthering the lessee's livestock operations. Before a loan is made, the lending agency may obtain from the authorized officer a written statement concerning the status of the grazing lease and other pertinent information relating thereto. A service charge of $10 will be made for searching the records to furnish such information, except that Federal and State lending agencies shall be exempt from the charge.

(b) An application by a borrower-lessee for an extension of the lease term should be executed and filed in triplicate on combined application and lease form (4–721). When it appears that such extension will be in accordance with applicable law and not contrary to the public interest, the signing officer in his discretion may extend the lease for a period not to exceed 10 years from the date of the loan, subject to such terms and conditions as are then provided by the regulations in this part, and by the signing officer.

(c) If the property of the lessee which was the basis for the granting of a preference right is acquired by the lending agency through foreclosure or otherwise, such agency or its occupants of the property or a purchaser of the property from the agency, if qualified, may apply on combined application and lease form (4–721) to be recognized as the new lessee. If, in selling the property, the lending agency takes back a mortgage on the property, the agency will receive the same consideration as in the case of an original loan.

(d) Where a lending agency files in the office of the authorized officer notice that it has made a loan and has accepted a grazing lease as security therefor, in conformity with the provisions of this section, such agency will be advised of any adverse action taken affecting the lease, but the failure to give timely notice of such adverse action shall impose no legal liability or obligation on the Bureau or any of its employees.

§ 160.23 *Appeals; filing.* An appeal from any decision rendered pursuant to §§ 160.1 to 160.23, inclusive, may be taken to the Director and the Secretary, in accordance with the rules of practice (Part 221 of this chapter). The appeal should be filed with the officer who rendered the decision.

This Circular replaces Circular 2052 (Cir. 2052 reprinted October 60 replaced Circulars 1807, 1882, 1884, 1898, 1953 and 2014 and those parts of Circulars 1969 and 2046 relating to 43 CFR, Part 160)

GPO 905212

Repl by C-2147

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER T—SALE, LEASE OR USE AND ACQUISITIONS

[Circular 2057]

PART 259—DISPOSAL OF TIMBER AND MINERAL RESOURCES

Trespass; Penalty for Unauthorized Removal of Materials

Section 259.71 is amended to read as follows:

§ 259.71 Trespass; penalty for unauthorized removal of materials.

The extraction, severance, injury, or removal of timber or mineral materials from public lands under the jurisdiction of the Department of the Interior, except when authorized by law and the regulations of the Department, is an act of tresspass. Trespassers will be liable in damages to the United States, and will be subject to prosecution for such unlawful acts. See Part 288 this chapter.

STEWART L. UDALL,
Secretary of the Interior.

FEBRUARY 13, 1961.

[F.R. Doc. 61-1465; Filed, Feb. 17, 1961; 8:46 a.m.]

Published in 26 F. R. February 18, 1961 - Effective 30th calendar day following this publication date.

Circular Distribution List

GPO 90768 1

Land Office

Title 43—PUBLIC LANDS: INTERIOR

replaced by 2075

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER H—GRAZING

[Circular 2058]

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Grazing District Advisory Board

Paragraphs (f) and (g) of § 161.13 are amended by adding new sentences at the end of each paragraph as follows:

§ 161.13 Grazing District Advisory Boards.

* * * * *

(f) *State Advisory Boards.* * * * The board shall select from its members one member to be chairman of the board. The co-chairman of the board shall be the State Supervisor.

(g) *National Advisory Council.* * * * The council shall select from its members one member to be chairman of the council. The co-chairman of the council shall be an official of the Department of the Interior appointed by the Secretary of the Interior.

STEWART L. UDALL,
Secretary of the Interior.

MARCH 14, 1961.

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Circular Distribution List

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER U—STATE AND RAILROAD GRANTS

[Circular No. 2059]

PART 270—STATE GRANTS FOR EDUCATIONAL, INSTITUTIONAL, AND PARK PURPOSES

Miscellaneous Amendments

Sections 270.1 (a), (c), and (d), 270.3 (b), (c), and (d) (3), 270.5(b), and 270.9(a) are amended all to read as follows:

§ 270.1 Statutory authority.

(a) Sections 2275 and 2276 of the Revised Statutes, as amended August 27, 1958, and September 14, 1960 (43 U.S.C. 851, 852), referred to in §§ 270.1 to 270.6 as "the law" authorize the public land States except Alaska to select lands (or the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals, or any specified mineral or minerals, which interest is referred to in §§ 270.1 to 270.6 as the "mineral estate") of equal acreage within the boundaries as indemnity for grant lands in place lost to the States because of appropriation prior to survey or because of natural deficiencies resulting from such causes as fractional sections and fractional townships.

* * * * *

(c) The law also provides that lands subject to a mineral lease or permit may be selected, but only if the lands are otherwise available for selection, and if none of the lands subject to that lease or permit are in producing or producible status. It permits the selection of lands withdrawn, classified, or reported as valuable for coal, phosphate, nitrate, potash, oil, gas, asphaltic minerals, oil shale, sodium, and sulphur and lands withdrawn by Executive Order No. 5327 of April 15, 1930, if such lands are otherwise available for, and subject to, selection, provided that, except where the base lands are mineral in character, such minerals are reserved to the United States in accordance with and subject to the regulations in Part 102 of this chapter. Except for the withdrawals mentioned in this paragraph and for lands subject to classification under section 7 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315f), as amended, the law does not permit the selection of withdrawn or reserved lands.

(d) The law further provides that upon the revocation not later than 10 years after August 27, 1958, of any order of withdrawal, in whole or in part, the order or notice taking such action shall provide for a period of not less than six months before the date on which it otherwise becomes effective in which the State in which the lands are situated shall have a preferred right of application for selection under the law, except as against prior existing valid settlement and preference rights conferred by existing law or as against equitable claims subject to allowance and confirmation, and except where a revocation of an order of withdrawal is made in order to assist in a Federal land program.

§ 270.3 Applications for selection.

* * * * *

(b) Applications for selection under the law will be made by the proper selecting agent of the State and will be filed, in duplicate, in the proper land office in the State or for lands or mineral estate in a State in which there is no land office, will be filed with the Bureau of Land Management, Washington 25, D.C., except that applications for lands or mineral estate in North Dakota or South Dakota shall be filed in the land office at Billings, Montana, applications for lands or mineral estate in Kansas or Nebraska shall be filed in the land office at Cheyenne, Wyoming, and for lands or mineral estate in Oklahoma in the land office at Santa Fe, New Mexico.

(c) No special form of application is required but it must be typewritten and must contain, or be accompanied by, the following information:

(1) A reference to the act of August 27, 1958 (72 Stat. 928), as amended.

(2) A certificate by the selecting agent showing

(i) That the selection is made under and pursuant to the laws of the State.

(ii) His official title and his authority to make the selection in behalf of the State.

(iii) That no portion of the selected land is occupied for any purpose by the United States and the land is unoccupied, unimproved, and unappropriated by any person claiming the land other than the applicant.[1]

(iv) All facts relative to medicinal or hot springs or other waters upon the selected lands.[1]

(v) That indemnity has not been previously granted for the assigned base lands and that no other selection is pending for such assigned base.

(3) A statement describing the mineral or nonmineral character of each smallest legal subdivision of the base and selected lands or mineral estate.

(4) A certificate by the officer or officers charged with the care and disposal of school lands that no instrument purporting to convey, or in any way incumber, the title to any of the land used as base or bases, has been issued by the State or its agents.

(d) * * *

(3) Separate base or bases must be assigned to each smallest legal subdivision of selected land or mineral estate and such base or bases must correspond in area with each subdivision. A portion of a smallest actual or probable legal subdivision may be assigned as base but such assignment is an election to take indemnity for the entire subdivision and

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[1] This provision does not apply insofar as the application involves the selection of the mineral estate.

Published in 25 F. R. April 7, 1961 - § 270.1 effective - 9/27/59
Remainder effective - 9/14/60

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is a waiver of the State's rights to such subdivision, except that any remaining balance may be used as base for future selections.

§ 270.5 Certifications; mineral leases and permits.

* * * * *

(b) Where all the lands subject to a mineral lease or permit are certified to a State, or if, where the State has previously acquired title to a portion of the lands subject to a mineral lease or permit, the remaining lands in the lease or permit are certified to the State, the State shall succeed to the position of the United States thereunder. Where a portion of the lands subject to any mineral lease or permit are certified to a State, the United States shall retain for the duration of the lease or permit the mineral or minerals for which the lease or permit was issued.

§ 270.9 Applicable regulations.

(a) Sections 270.5(b) and 270.3(c) (4), (d) (3) and (4), and all references to base lands and to mineral estate do not apply.

STEWART L. UDALL,
Secretary of the Interior.

APRIL 3, 1961.

[F.R. Doc. 61-3082; Filed, Apr. 6, 1961; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular No. 2060]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES, AND LICENSES

PART 192—OIL AND GAS LEASES

Lease Terms and Rental Noncompetitive Oil and Gas Leases; Revocation of Waiver of Second and Third Years' Rental; Rights of Bona-Fide Purchasers and Miscellaneous Amendments

A notice of the proposed amendments of 43 CFR, Parts 191 and 192 was published in the FEDERAL REGISTER of October 7, 1960, on pages 9647–9649. The purpose of the amendments was to implement the provisions of the Mineral Leasing Act Revision of September 2, 1960, Public Law 86–705 (74 Stat. 781).

Interested parties were given 30 days from date of publication within which to submit written comments, suggestions or objections with regard to the proposed amendments. As the result of, and after due consideration of, all of the comments, suggestions and objections received during that period, certain of the proposed amendments were revised so that the proposed amendments read as follows. In addition § 192.81 has been amended to provide, after a discovery, for a minimum royalty of $2 per acre on leases issued on and after September 2, 1960, which conforms with the royalty rates provided for in § 192.80 as amended; § 192.83 has been amended to restore the provision, inadvertently omitted from a previous amendment of this section, that the limitation on overriding royalty will apply separately to any zone or portion of a lease segregated for computation of Government royalty, and § 192.140, which relates to assignments of leases, has been amended to make the requirement for statements of interest the same as that required by § 192.42(e)(iii) to be submitted with offers to lease. It is deemed that notice of proposed rule making as to these three sections would be impractical and unnecessary. The amendments are hereby adopted, to take effect 30 days from date of publication in the FEDERAL REGISTER.

1. Section 191.15 of Title 43, Code of Federal Regulations is amended and new §§ 191.16 and 191.17 are added to read as follows:

§ 191.15 Bona fide purchasers of leases and interests subject to cancellation or forfeiture.

(a) The Act of September 21, 1959 (73 Stat. 571), as amended by the Act of September 2, 1960 (74 Stat. 781; Public Law 86–705), provides that the right to cancel or forfeit for violation of any of the provisions of this Act shall not apply so as to affect adversely the title or interest of a bona fide purchaser of any lease, option to acquire a lease or an interest therein, or permit which lease, interest, option, or permit was acquired and is held by a qualified person, association, or corporation in conformity with those provisions, even though the holdings of the person, association, or corporation from which the lease, interest, option, or permit was acquired, or of his predecessor in title (including the original lessee of the United States) may have been cancelled or forfeited or may be or may have been subject to cancellation or forfeiture for any such violation.

(b) If in any proceeding to cancel or forfeit a lease, interest in a lease, option to acquire a lease or an interest therein, or a permit acquired in violation of any of the provisions of this Act, an underlying lease, interest, option, or permit is cancelled or forfeited to the Government and there are valid interests therein or valid options to acquire the lease or an interest therein which are not subject to cancellation, forfeiture, or compulsory disposition, such underlying lease interest, option, or permit shall be sold to the highest responsible, qualified bidder by competitive bidding in a manner similar to that provided for in the offering of leases by competitive bidding subject to all outstanding valid interests therein and valid options pertaining thereto. However, if less than the whole interest in the lease, interest, option, or permit is cancelled or forfeited, such partial interests shall likewise be sold in similar manner. If no satisfactory offer is obtained as a result of the competitive offering of such whole or partial interests, such interests may be sold by such other method as the authorized officer deems appropriate, but on terms not less favorable to the Government than those of the best competitive bid received.

(c) The commencement and conclusion of all such proceedings shall be noted promptly upon the serial register relating to the particular lease or option or other interest involved.

(d) Effective as of September 21, 1959, any party to any proceeding with respect to a violation of any provision of the Act, whether initiated prior or subsequent to that date, has the right to be dismissed promptly as such a party by showing that he holds and acquired the interest involving him as a bona fide purchaser without having violated any provisions of the Act. No hearing shall be necessary upon such showing unless prima facie evidence is presented to indicate a possible violation on the part of the alleged bona fide purchaser.

(e) If during any such proceeding a party thereto files a waiver of his rights under his lease to drill or to assign his interest thereto, or if such rights are suspended by order of the Secretary pending a decision, payment of rentals and the running of time against the term of the lease or leases involved shall be suspended as of the first day of the month following the filing of the waiver or the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver for suspension.

§ 191.16 Limitation on time to institute suit to contest a Secretary's decision.

If no action contesting a decision of the Secretary involving any oil and gas lease or offer therefor is commenced within 90 days after decision of the Secretary or if the Secretary's decision is rendered prior to the Act of September 2, 1960, within 90 days after that Act the Secretary's decision shall be final and conclusive of the rights of the parties.

§ 191.17 Oil and gas leases involved in proceedings under the Multiple Mineral Development Act of August 13, 1954.

If any oil and gas lease issued under Section 17 of the Mineral Leasing Act, as amended (30 U.S.C. sec. 226) includes an area with respect to which a verified statement is filed by a mining claimant under section 7(c) of the Multiple Mineral Development Act of 1954 (68 Stat. 708) as amended, asserting the existence of a conflicting unpatented mining claim or claims upon which diligent work is being prosecuted the payment of rentals and the running of time under such lease shall be suspended as to the lands in conflict from the first day of the month following the filing of such verified statement until a final decision is rendered in the matter.

2. The section heading and paragraphs (a), (b), (d), and (e) of § 192.3, are amended to read as follows:

§ 192.3 Acreage limitations on leases and options.

(a) No person, association, or corporation shall take hold, own, or control at one time oil and gas leases (including options for such leases or interests therein) whether directly through ownership of leases or interests in leases and applications, or offers therefor or indirectly as a member of an association or associations or as a stockholder of a corporation or corporations, holding leases or interests therein and applications or offers therefor for more than 246,080 acres in any one State, of which no more than 200,000 acres may be held under option, except that in the State of Alaska the acreage limitation is 300,000 acres in the northern leasing district and 300,000 acres in the southern leasing district, of which no more than 200,000 acres may be held under option in each of the two leasing districts.

(1) The boundary between the two leasing districts in the State of Alaska is the left limit of the Tanana River from the boundary between the United States and Canada to the confluence of the Tanana River and Yukon River and the left limit of the Yukon River from said confluence to its principal southern mouth.

(2) Leases or offers or applications for leases committed to any unit or cooperative plan approved or prescribed by the Secretary of the Interior shall not be included in computing accountable acreage. Leases or offers or applications for leases subject to an operating, drilling, or development contract approved by the Secretary of the Interior pursuant to section 17(j) of the act, other than communization agreements, shall be excepted in determining the accountable acreage of the lessees or operators.

(3) Where, as the result of the termination or contraction of a unit or cooperative plan, or the elimination of a lease from operating, drilling, or development plan, a party holds or controls excess accountable acreage, such party shall have 90 days from such termination or contraction or elimination in which to reduce his holdings to the prescribed limitation and to file proof of such reduction in the proper land office.

(b) In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease shall be such party's proportionate part of the total lease acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage except that no person shall be charged with his pro rata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than ten per centum of the stock or other instruments of ownership or control of such association or corporation. An option held by a corporation or an association on September 2, 1960 shall not, for a period of 3 years, be charged to any stockholder of the corporation or member of the association so long as it is so held. Parties owning a royalty or other interest determined by or payable out of a percentage of production from a lease will be charged with a similar percentage of the total lease acreage.

* * * * *

(d) At any time upon request by the authorized officer of the Bureau of Land Management, the record title holder of any lease or a lease operator or a lease offeror or the holder of any lease option may be required to file in the appropriate land office a statement, showing as of a specified date the serial number and the date of each lease of which he is the record holder, or under which he holds operating rights, or for which he holds an option, and each application or offer for lease held or filed by him in the particular State setting forth the acreage covered thereby, and the nature, extent and acreage interest, including royalty interests held by him in any oil and gas lease of which the reporting party is not the lessee of record, whether by corporate stock ownership, interest in unincorporated associations and partnerships, or in any other manner.

(e)(1) If any person holding or controlling only leases or interests in leases or options or interests in options is found to hold accountable acreage in violation of the provisions of this section and of the act, the last lease or leases or interest or interests acquired by him which with the options or interests in options created the excess acreage holding shall be cancelled or forfeited in their entirety, even though only part of the acreage in the lease or interest constitutes excess holdings, unless it can be shown to the satisfaction of the Director of the Bureau of Land Management that the holding or control of the excess acreage is not the result of negligence or willful intent in which event the lease or leases shall be cancelled only to the extent of the excess acreage.

(2) If any person holding or controlling leases or interests in leases only, or applications or offers for leases only, or

both leases or interest in leases and applications or offers or options or interests in options below the acreage limitation provided in this section, files an application or offer, or a group of applications or offers (filed simultaneously), or options or interests in options or group thereof which causes him to exceed the acreage limitation, the application or offer, or group of applications or offers, causing the excess holding, will be rejected in its entirety.

(3) If any person holding or controlling both leases or interests in leases and applications or offers for leases, or options or interests in options or only applications or offers for leases below the acreage limitation provided in this section, acquires a lease or leases, or an option or options or interests therein, which cause him to exceed the acreage limitation, his most recently filed application or offer for lease or applications or offers for lease then containing acreage in excess of the limitation provided in this section will be rejected in its or their entirety. For the purpose of this subparagraph, time of filing shall be determined by the time of filing marked on the application or offer or, if the same time is marked on two or more applications or offers, by the serial number of the applications or offers.

(4) The provisions of this paragraph shall not limit any action which the Department may take with respect to excess acreage holdings in cases not otherwise covered by this paragraph.

3. The section heading and paragraphs (a), (b), and (e) of § 192.4 are amended to read as follows:

§ 192.4 Options.

(a) No option to acquire any interest in an oil and gas lease shall be enforceable if entered into for a period of more than three years (inclusive of any renewal period, if provided for in the option) without the prior approval of the Secretary. The acreage to which the option is applicable shall be charged both to the optionor and to the optionee, but the charge to the optionor shall cease when the option is exercised. If the option covers only a part of the optionor's interest in the acreage included in a lease, the acreage to which the option is applicable shall be fully charged to the optionor, and a share thereof shall also be charged to the optionee as his interest may appear. Upon the exercise of the option, the acreage shall be charged to the parties pro rata as their interests may appear. An unexercised option remains charged during its term until notice of its relinquishment or surrender has been filed in the appropriate land office.

(1) No option or renewal thereof executed after September 1, 1960, shall be enforceable until notice thereof has been filed in the appropriate land office. No such notice shall be required for options or renewals executed prior to September 2, 1960. Each such notice shall include (i) the names and addresses of the parties thereto; (ii) the serial number of the lease or application for lease to which the option is applicable; (iii) a statement of the number of acres covered thereby and of the interests and obligations of the parties thereto; and (iv) the interest to be conveyed and retained on exercise of the option. Such notice shall be subscribed by all parties to the option or their duly authorized agents. The filing of an executed copy of the option containing the above information shall satisfy the foregoing requirement. In addition, the notice of option must contain or be accompanied by a signed statement, by the holder of the option, that he is the sole party in interest in the option; if not, he shall set forth the names and nature and extent of the interest therein of the other interested parties, the nature of the agreement between them if oral, and a copy of such agreement, if written.

(b) An option hereafter taken on a lease application or offer may be for the period of time until issuance of the lease and three years thereafter. Where it is sought to obtain options for periods in excess of those provided in the preceding sentence, an application should be filed with the authorized officer of the Bureau of Land Management, accompanied by a complete showing as to the special or unusual circumstances which are believed to justify approval of the application.

* * * * *

(e) Each holder of an option must file in the appropriate land office within 90 days after June 30 and December 31 of each year duplicate statements showing as of the prior June 30 and December 31, respectively (1) his name and the name and address of each grantor of an option held by him, the serial number of every lease, application or offer for lease subject to option; (2) date and expiration date of each option; (3) number of acres covered by each option; (4) aggregate number of options held in each State, and total acreage thereof; and (5) a statement of his interest and obligation under each option; provided, that the statement of his interest and obligation with respect to any option shall not be required where such interests and obligations have been set forth in the notice required under paragraph (a) of this section and there have been no changes in such interests and obligations since such filing. Option statements covering lands in the State of California shall be filed in the land office at Sacramento, California. The failure of the holder of an option to file such statement shall render the option unenforceable by him, but this shall not diminish the acreage deemed to be held under option by the optionee in computing the amount chargeable under § 192.3 and shall not relieve any party thereto of any liability to cancellation, foreiture, forced disposition, or other sanction provided by law.

4. Section 192.40 is amended to read as follows:

§ 192.40 Classes and term.

(a) All lands subject to disposition under the act which are known or believed to contain oil or gas may be leased by the Secretary of the Interior. When within the known geologic structure of a producing oil or gas field such land may be leased only by competitive bidding and in units of not exceeding 640 acres to the highest responsible qualified bidder at a royalty of not less than 12½ percent. Leases for not to exceed 2,560 acres, except where the rule of approximation applies, entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width measured in cardinal directions, may be issued for all other land subject to the act to the first qualified offeror at a royalty of 12½ percent.

(b) All competitive leases shall be for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities and noncompetitive leases for a primary term of ten years and so long thereafter as oil or gas is produced in paying quantities.

5. Subparagraphs (3) (ii), (iii) and (4) of paragraph (e) of § 192.42 are amended to read as follows:

§ 192.42 Offer to lease, and issuance of lease.

* * * * *

(e) * * *

(3) * * *

(ii) A statement over the offeror's signature setting forth whether the offeror's direct and indirect interests in oil and gas leases, applications, and offers therefor and options exceed 246,080 acres in the same State of which no more than 200,000 acres are under option, or exceed 300,000 acres in each of the northern and southern leasing districts of Alaska, of which no more than 200,000 acres are held under option in each of said leasing districts and in addition, if the offeror is an individual, a statement of his citizenship.

(iii) A signed statement by the offeror that he is the sole party in interest in the offer and the lease, if issued; if not he shall set forth the names of the other interested parties. If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them if oral, and a copy of such agreement if written. Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the lease offer. All interested parties must furnish evidence of their qualifications to hold such lease interest.

(4) (i) If the offer is signed by an attorney in fact or agent, or if any attorney in fact or agent has been authorized to act on behalf of the offeror with respect to the offer or lease, separate statements over the signatures of the attorn in fact or agent and the offeror stat whether or not there is any agreement or understanding between them, or with any other person, either verbal or written by which the attorney in fact or agent or such other person has received, or is to receive, any interest in the lease when issued, including royalty interest or interest in any operating agreement under the lease giving full details of the agreement or understanding, if it is a verbal one; the statement must be accompanied by a copy of any such written agreement or understanding; and if such an agreement or understanding exists, the statement of the attorney in fact or agent should set forth the citizenship of the attorney in fact or the agent or other person and whether his direct and indirect interests in oil and gas leases, applications, and offers including options for such leases or interests therein exceed 246,080 acres in any one State, of which no more than 200,000 acres may be held under option, or exceeds the permissible acreage in Alaska as set forth in § 192.3(a). The statement by the principal (offeror) may be filed within 15 days after the filing of the offer. This requirement does not apply in cases in which the attorney in fact or agent is a member of an unincorporated association (including a partnership) or is an officer of a corporation and has an interest in the offer or the lease to be issued solely by reason of the fact that he is a member of the association or stockholder in the corporation.

(ii) If the power of attorney specifically limits the authority of the attorney in fact to file offers to lease for the sole and exclusive benefit of the principal and not in behalf of any other person in whole or in part, and grants specific authority to the attorney in fact to execute all statements of interest and of holdings in behalf of the principal and to execute all other statements required, or which may be required, by the Acts and the regulations, and the principal agrees therein to be bound by such representations of the attorney in fact and waives any and all defenses which may be available to the principal to contest, negate or disaffirm the actions of the attorney in fact under the power of attorney, then the requirement that statements must be executed by the offeror will be dispensed with and such statements executed by the attorney in fact will be acceptable as compliance with the provisions of the regulations.

§ 192.42 [Amendment]

6. Subparagraph (1) (iv) of § 192.42(g) is amended to read as follows:

(iv) Except if the power of attorney is within the purview of paragraph (e) (4) (ii) of this section, the offer is signed by an attorney in fact or agent in behalf of the offeror and the offer is not accompanied by a statement over the offeror's own signature with respect to holdi and citizenship and by the stateme and evidence required by paragraph (e) (4) of this section, and such statement by the principal (offeror) is not filed within 15 days after the filing of the offer.

7. Paragraph (a) and paragraph (b) (1), (2), (3) of § 192.80 are amended to read as follows:

§ 192.80 Rentals.

Rentals shall be payable in advance at the following rates:

(a) On noncompetitive leases issued on and after September 2, 1960, under section 17 of the act wholly outside of the known geologic structure of a producing oil and gas field for each lease year an annual rental of 50 cents per acre or fraction thereof.

(1) The lease rentals for the primary and extended terms of all oil and gas leases which issued prior to September 2, 1960, shall be payable at the rates in effect at that time and prescribed in the lease.

(2) The lease rentals for the primary and extended terms of all leases covering lands in the State of Alaska which issued prior to September 2, 1960, pursuant to applications or offers filed after May 3, 1958, shall be payable at the identical rates in effect on May 3, 1958, for leases covering lands in the other States, pursuant to Section 10 of the act of July 3, 1958 (72 Stat. 324; 30 U.S.C., Sec. 251).

(3) The lease rentals for the primary and extended terms of all oil and gas leases covering lands in the State of Alaska which issued pursuant to applications or offers filed prior to and which were pending on May 3, 1958, shall be payable at the rates then applicable to the State of Alaska and as prescribed in the lease.

(b) On leases wholly or partly within the known geologic structure of a producing oil and gas field:

(1) If issued noncompetitively under section 17 of the act, and not committed to a cooperative or unit plan that contains a general provision for allocation of production, beginning with the first lease year after the expiration of thirty days' notice to the lessee that all or part of the land is included in such a structure and for each year thereafter prior to a discovery of oil or gas on the leased lands, rental of $2 per acre or fraction thereof.

(2) If issued noncompetitively under section 17 of the act, and committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, the rental prescribed for the respective lease years in paragraph (a) of this section shall apply to the acreage not within a participating area.

(3) If issued competitively; an annual rental, prior to a discovery on the leased lands, of $2 per acre or fraction thereof, unless a different rate of rental is prescribed in the lease.

8. Section 192.81 is amended to read as follows:

§ 192.81 Minimum royalty.

On leases issued on and after August 8, 1946, but prior to the effective date of this amended regulation, and on those issued prior to August 8, 1946, if the lessee files an election under section 15 of the act of August 8, 1946, a minimum royalty of $1 per acre in lieu of rental, shall be payable at the expiration of each lease year after a discovery has been made on the leased lands, commencing with the lease year, beginning on or after the date of such discovery, except that on unitized leases the minimum royalty shall be payable only on the participating acreage. If the actual royalty paid during any year aggregates less than $1 per acre the lessee must pay the difference at the expiration of the lease year. On leases issued on and after the effective date of this amended regulation the minimum royalty shall be at the rate of $2 per acre. If the actual royalty paid during any year aggregates less than $2 per acre the lessee must pay the difference at the expiration of the lease year.

9. Paragraph (a)(1) of § 192.82 is amended to read as follows:

§ 192.82 Royalty on production.

(a) On and after August 8, 1946, the following royalty rates shall be paid on the production removed or sold from leases:

(1) 12½ percent royalty on noncompetitive leases issued under section 17 of the act: *Provided, however,* That any holder of a lease for lands in Alaska which issued and was outstanding prior to May 3, 1958, who shall drill and make the first discovery of oil or gas in commercial quantities in any geologic structure shall pay a royalty on all production under the lease of 5 percent for 10 years following the date of such discovery and thereafter the royalty rate shall be 12½ percent. If such lease is committed to an approved unit or cooperative plan under which such a discovery is made, the 5 percent rate herein provided shall, for the purpose of computing royalty due the United States, inure to the benefit of all the land to which an allocation is made under such plan.

10. Section 192.83 is amended to read as follows:

§ 192.83 Limitation of overriding royalties.

An agreement creating overriding royalties or payments out of the production of oil which, when added to overriding royalties or payments out of production of oil previously created and to the royalty payable to the United States, aggregate in excess of 17½ percent shall be deemed a violation of the terms of the lease unless such agreement expressly provides that the obligation to pay such excess overriding royalty or payments out of production of oil shall be suspended when the average production of oil per well per day averaged on the monthly basis is 15 barrels or less. The limitation on overriding royalties or payments out of production is not applicable to the production of gas. The limitation in this section will apply separately to any zone or portion of a lease segregated for computing Government royalty.

11. Paragraph (a) of § 192.120 is amended to read as follows:

§ 192.120 Single extension of a noncompetitive lease.

(a) Under the conditions set out in the following paragraphs of this section, the record title holder of any noncompetitive lease maintained in accordance with the statutory requirements and the regulations in this part which issued prior to September 2, 1960, shall be entitled, to a single extension of the lease at the expiration of the initial five-year term unless then otherwise provided by law. An application for such extension may be filed by the record title holder of the lease, by an assignee whose assignment has been filed for approval, or by an operator whose operating agreement has been filed for approval.

12. Part 192 is amended by including a new § 192.120a to read as follows:

§ 192.120a Continuation of lease as a result of actual drilling operations commenced prior to, and continuing at the end of the term.

Any leasehold on which, or for which actual drilling operations were commenced under an approved cooperative or unit plan of development or operation, prior to the end of its primary term, and are being dilligently prosecuted at that time, shall continue in effect for two years after the end of the primary term and so long thereafter as oil or gas is produced in paying quantities. As used in this section "primary term" means all periods in the life of the lease prior to its extension by reason of production of oil or gas in paying quantities.

13. Section 192.140 is hereby amended to read as follows:

§ 192.140 Assignments or transfers of leases or interests therein.

Leases may be assigned or subleased as to all or part of the leased acreage and as to either a divided or undivided interest therein to any person or persons qualified to hold a lease. The assignment or sublease must be accompanied by a signed statement by the assignee or sublessee that he is the sole party in interest in the assignment or sublease; if not, he shall set forth the names of the other interested parties. If there are other parties interested in the assignment or sublease, a separate statement must be signed by them and by the assignee or sublessee setting forth the nature and extent of the interest of each, the nature of the agreement between them, if oral, and a copy of the agreement if written. Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the assignment or sublease. Subject to final approval by the Bureau of Land Management, assignments or subleases shall take effect as of the first day of the lease month following the late of filing in the proper land office of all the papers required by §§ 192.141 and 192.142. No assignment will be approved if the assignee or sublessee or any other parties in interest are not qualified to take and hold a lease or if their bond is insufficient or if they fail to file the statement required by this section. A minor, except a minor heir or devisee of a lessee, is not qualified to hold a lease and an assignment to a minor will not be approved. An assignment of a separate zone or deposit or of a part of a legal subdivision will not be approved unless the necessity therefor is established by clear and convincing evidence.

14. Paragraph (b) of § 192.144 is amended, and a new paragraph (c) is added thereto to read as follows:

§ 192.144 Extension of leases segregated by assignment.

* * * * *

(b) Undeveloped parts of leases retained or assigned out of leases which are in their extended term under any provision of the act shall continue in effect for two years after the effective date of assignment and so long thereafter as oil or gas is produced in paying quantities, provided the parent lease was issued prior to September 2, 1960.

(c) Undeveloped parts of leases retained or assigned out of leases which are extended by production, actual or suspended, or the payment of compensatory royalty shall continue in effect for two years after the effective date of assignment and so long thereafter as oil or gas is produced in paying quantities.

STEWART L. UDALL,
Secretary of the Interior.

APRIL 15, 1961.

[F.R. Doc. 61-3598; Filed, Apr. 20, 1961; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2061]

CHANGES IN REGULATIONS NOMENCLATURE BECAUSE OF REORGANIZATION

Wherever the titles "Area Administrator," "Area Range and Forestry Officer," "Area Cadastral Engineering Officer," "Area Cadastral Engineer," or "State Supervisor," appear in the following listed parts, the title "State Director" is substituted therefor. Wherever the title "Eastern States Supervisor" appears in any of these parts, the title "Director" is substituted therefor.

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STEWART L. UDALL,
Secretary of the Interior.

MAY 31, 1961.

[F.R. Doc. 61-5175; Filed, June 5, 1961; 8:46 a.m.]

Published in 26 F. R. June 6, 1961 - Effective upon publication

Circular Distribution List

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2061]

CHANGES IN REGULATIONS NOMENCLATURE BECAUSE OF REORGANIZATION

Wherever the titles "Area Administrator," "Area Range and Forestry Officer," "Area Cadastral Engineering Officer," "Area Cadastral Engineer," or "State Supervisor," appear in the following listed parts, the title "State Director" is substituted therefor. Wherever the title "Eastern States Supervisor" appears in any of these parts, the title "Director" is substituted therefor.

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STEWART L. UDALL,
Secretary of the Interior.

MAY 31, 1961.

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER B—APPLICATIONS AND ENTRIES

[Circular 2062]

PART 103—ENTRIES SUBJECT TO SECTION 24 OF FEDERAL POWER ACT

Part 103 is revised to read as follows:

Sec.
103.1 Statutory authority.
103.2 Lands considered withdrawn or classified for power purposes.
103.3 General determination.
103.4 Mining locations.
103.5 Petitions for restoration.

Authority: §§ 103.1 to 103.5 issued under R.S. 2478; 43 U.S.C. 1201.

Cross References: For applications and entries, Alaska, see Part 60 of this chapter. For rights-of-way for power projects and for power transmission lines, see Part 244 of this chapter. For regulations of the Federal Power Commission, see 18 CFR Chapter I. For rights-of-way over Indian lands; power projects; see Indians 25 CFR 161.27.

§ 103.1 Statutory authority.

(a) Section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, provides that any lands of the United States included in an application for power development, under said Act, shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States, until otherwise directed by the Federal Power Commission or by Congress. It also provides that whenever the Commission shall determine that the value of any lands withdrawn or classified for power purposes will not be injured or destroyed for such purposes by location, entry or selection under the public land laws, the Secretary of the Interior shall declare such lands open to location, entry or selection under such restrictions as the Commission may determine, and subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy and use any or all of such lands for power purposes. Before the lands are declared open to location, entry or selection, the Secretary of the Interior must give notice of his intention to make such declaration, to the Governor of the State within which such lands are located, and the State shall have a preference for a period of 90 days from the date of such notice to file under any applicable law or regulation, an application for the reservation to the State, or any political subdivision thereof, of any lands required as a right-of-way for a public highway or as a source of materials for the construction and maintenance of such highways.

(b) The act of August 11, 1955 (69 Stat. 681; 30 U.S.C. 621) opened lands then, theretofore or thereafter withdrawn or classified for power purposes, with certain specified exceptions, to mineral location and development under certain conditions.

§ 103.2 Lands considered withdrawn or classified for power purposes.

The following classes of lands are considered as withdrawn or classified for power purposes for the purposes of section 24 of the Federal Power Act: Lands withdrawn for powersite reserves under the act of June 25, 1910 (36 Stat. 847) as amended by the act of August 24, 1912 (37 Stat. 497; 43 U.S.C. 141–143); lands included in an application for power development under the Federal Power Act; lands classified for powersite purposes under the act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31); lands designated as valuable for power purposes under the acts of June 20, 1910 (36 Stat. 557, 564, 575), June 9, 1916 (39 Stat. 218, 219), and February 26, 1919 (40 Stat. 1178, 1180); lands within final hydroelectric power permits under the act of February 15, 1901 (31 Stat. 790; 43 U.S.C. 959); and lands within transmission-line permits or approved rights-of-way under said act of 1901 or the act of March 4, 1911 (36 Stat. 1253; 16 U.S.C. 5, 420, 523; 43 U.S.C. 961).

§ 103.3 General determination.

On April 17, 1922, the Federal Power Commission made a general determination "that where lands of the United States have heretofore been, or hereafter may be, reserved or classified as powersites, such reservation or classification being made solely because such lands are either occupied by power transmission lines or their occupancy and use for such purposes has been applied for or authorized under appropriate laws of the United States, and such lands have otherwise no value for power purposes, and are not occupied in trespass, the commission determines that the value of such lands so reserved or classified or so applied for or authorized, will not be injured or destroyed for the purposes of power development by location, entry or selection under the public land laws, subject to the reservation of section 24 of the Federal Water Power Act."

§ 103.4 Mining locations.

The regulations governing mining locations on lands withdrawn or classified for power purposes, including lands restored under section 24 of the Federal Power Act, are contained in Subpart I of Part 185 of this chapter.

§ 103.5 Petitions for restoration.

(a) Petitions for restoration of lands withdrawn or classified for power purposes, under the provisions of section 24 of the Federal Power Act, must be filed, in duplicate, in the proper land office, or for lands in States for which there are no land offices, with the Bureau of Land Management, Washington 25, D.C., except that petitions for lands in North or South Dakota must be filed in the land office at Billings, Montana; for lands in Kansas or Nebraska in the land office at Cheyenne, Wyoming; and for lands for Oklahoma in the land office at Santa Fe, New Mexico. No particular form of petition is required, but it must be typewritten or in legible handwriting. Each petition must be accompanied by a service charge of $10 which is not returnable.

(b) Favorable action upon a petition for restoration will not give the petitioner any preference right or right to preferential treatment if or when the lands are finally restored.

Stewart L. Udall,
Secretary of the Interior.

June 1, 1961.

[F.R. Doc. 61-5235; Filed, June 6, 1961; 8:46 a.m.]

Published in 26 F.R. June 7, 1961 - Effective 30th calendar day
following this publication date.

Circular Distribution List

This Circular replaces Circular No. 1989

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

[Circular 2063]

PART 254—RECREATION AND PUBLIC PURPOSES

Miscellaneous Amendments

Sections 254.1, 254.2 and 254.3; paragraphs (c) and (f) of § 254.5; paragraph (b) of § 254.7; paragraph (e) of § 254.8; paragraph (c) of § 254.10; and § 254.13 are amended to read as follows:

§ 254.1 Statutory authority.

The act of June 14, 1926 (44 Stat. 741), as amended June 4, 1954 (68 Stat. 173), June 23 and September 21, 1959 (73 Stat. 110, 571), and September 13, 1960 (74 Stat. 899; 43 U.S.C. 869; 869:1–4), authorizes the Secretary of the Interior, under specified conditions, to lease or sell lands for recreational and public purposes. This legislation is referred to as "the act" in the regulations of this part.

§ 254.2 Who may apply.

The following are qualified to make applications under the act; States, Federal and State instrumentalities and political subdivisions, including counties and municipalities; and nonprofit associations and nonprofit corporations.

§ 254.3 Lands subject to disposition.

The act is applicable to any public domain lands except (a) lands withdrawn or reserved for national forests, national parks and monuments, and national wildlife refuges and (b) Indian lands and lands set aside or held for use by or the benefit of Indians. The act is applicable to the Oregon and California Railroad revested grant lands and to the Coos Bay reconveyed wagon-road grant lands only insofar as it applies to leases of land to States and counties and to State and Federal instrumentalities and political subdivisions and to municipal corporations.

§ 254.5 General limitations and conditions on dispositions.

* * * * *

(c) No applicant in any one calendar year can receive under the act patents for land except in conformance with the following:

(1) Any State may acquire in its own name, or in the name of its State park agency, or in the name of any other agency having jurisdiction over the State park system of said State designated by the Governor of the State as its sole representative for acceptance of lands under this provision for recreational purposes, not more than 6,400 acres involving not more than three sites, except that should any State fail in any one calendar year to receive the maximum herein specified, other than small roadside parks and rest sites, additional conveyances may be made thereafter to that State pursuant to any application on file with the Secretary of the Interior on the last day of said year, to the extent that the conveyances would not have exceeded the limitations of said year.[1] In addition, any State may acquire, in its own name or in the name of an agency or instrumentality of such State not more than 640 acres for each of its programs involving public purposes other than recreation.

(2) Any political subdivision of a State and any nonprofit corporation or nonprofit association may acquire in its own name for recreational purposes not more than 640 acres and for public purposes other than recreation an additional 640 acres.

* * * * *

(f) Municipal corporations cannot secure land under this act if it is not within convenient access to the municipality and within the same State as the municipality. Other qualified applicants cannot secure land outside of their political boundaries or other area of jurisdiction.

§ 254.7 Applications.

* * * * *

(b) The acreage applied for in any one application for patent cannot exceed 640 acres except that applications for patent for State park purposes may embrace as much as 6,400 acres, or where provided by law 12,800 acres.

§ 254.8 Purchase price and lease rentals.

* * * * *

(e) A patent applicant, when the land has been appraised, will be required to pay the full purchase price before the patent will be issued. The rental under a lease shall be payable in advance. Upon appraisal of the land, a lease applicant will be required to pay at least the first year's rental before the lease will be issued. Upon the voluntary relinquishment of a lease before the expiration of its term, any rental paid for the unexpired portion of the term will be returned to the lessee upon a proper application for repayment to the extent that the amount paid covers a full lease year or years of the remainder of the term of the original lease.

§ 254.10 Publications; protests; patents; transfers.

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(c) All patents under this act will contain a clause providing that if the patentee or its successor attempts to transfer title to or control over the lands to another or the lands are devoted to a use other than that for which the lands were conveyed, without consent of competent authority or prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors, or subcontractors (including without limitation, lessees, sublessees and permittees), to prohibit or restrict, directly or indirectly, the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, or national origin, title shall revert to the United

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[1] During calendar years 1960, 1961, and 1962, this limitation is increased to 12,800 acres involving not more than six sites, plus such acreage as may be needed for small roadside parks and rest sites of not more than 10 acres each.

Published in 26 F.R. June 7, 1961 - Effective 30th calendar day following this publication date.

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States. Transferees must meet all the qualifications of applicants under the act and will be subject to the terms and conditions of the regulations of this part.

§ 254.13 Cooperation with the National Park Service.

In the furtherance of the purposes of the act of June 23, 1936 (49 Stat. 1894; 16 U.S.C. 17k), the National Park Service will review and make recommendations on all applications for recreational purposes submitted by States or their political subdivisions.

STEWART L. UDALL,
Secretary of the Interior.

JUNE 1, 1961.

[F.R. Doc. 61-5236; Filed, June 6, 1961; 8:46 a.m.]

This Circular replaces Circulars 1801 and 1992, and parts of Circular No. 1880

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular No. [illegible]]

PART [illegible]—PHOSPHATE LEASES, PROSPECTING PERMITS AND USE PERMITS

[illegible]

[illegible] the use of [illegible] a permit or lease may [illegible] acres. The lands will be in reasonably compact form and entirely within an area of six miles square or within an area not exceeding six surveyed or protracted sections in length or width.

(1) No person, association, or corporation, may hold at any one time more than 10,240 acres in the United States, whether directly through the [illegible] of phosphate leases, permits and [illegible]

(2) All leases will [illegible] for a [illegible] years and [illegible] complies with [illegible] of the lease. [illegible] will be issued [illegible] primary term [illegible] extended for [illegible] not in excess of [illegible] of Land Management [illegible] it is found [illegible]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular No. 2064]

PART 196—PHOSPHATE LEASES, PROSPECTING PERMITS AND USE PERMITS

Part 196, Title 43 of the Code of Federal Regulations is completely amended to read as follows:

Sec.
196.1 Statutory authority.
196.2 Area; limitation on holdings; term.
196.3 Qualifications of applicant.
196.4 Protection of pre-existing mining claims.
196.5 Application for prospecting permit.
196.6 Rights conferred.
196.7 Permit rental.
196.8 Permit bond.
196.9 Extension of permit.
196.10 Availability of lands for further permit applications where a permit is canceled, relinquished or terminated.
196.11 Reward of discovery under permit.
196.12 Application for lease by competitive bidding.
196.13 Lease bond.
196.14 Minimum production.
196.15 Lessee's petition for change in minimum production.
196.16 Offer of lands or deposits for lease by competitive bidding.
196.17 Notice of lease offer.
196.18 Bidding requirements; deposits.
196.19 Action after lease offer.
196.20 Use of silica, limestone or other rock.
196.21 Payments and reports.
196.22 Assignments of leases and permits or interests therein.
196.23 Limitation on overriding royalties.
196.24 Readjustment of lease terms and conditions at end of twenty-year periods.
196.25 Relinquishment of lease.
196.26 Cancellation of lease.
196.27 Use permits for additional lands.

AUTHORITY: §§ 196.1 to 196.27, issued under sec. 32, 41 Stat. 450; 30 U.S.C. 189.

§ 196.1 Statutory authority.

Sections 9 to 12, inclusive of the Act of February 25, 1920 (41 Stat. 440; 441, 30 U.S.C. 211–214), as amended, hereinafter referred to as the act, authorizes the Secretary of the Interior to:

(a) Issue permits to prospect for phosphate deposits, including associated minerals, in public lands or in public lands disposed of with a reservation of such deposits to the United States;

(b) Lease such lands known to contain such deposits, and

(c) Grant to a permittee or lessee of such lands the right to use unappropriated and unentered public land not exceeding 80 acres for proper extraction, treatment or removal of the deposits covered by the permit or lease.

§ 196.2 Area; limitation on holdings; term.

(a) Except where the rule of approximation[1] applies, a permit or lease may not exceed 2,560 acres. The lands will be in reasonably compact form and entirely within an area of six miles square or within an area not exceeding six surveyed or protracted sections in length or width.

(1) No person, association, or corporation, may hold at any one time more than 10,240 acres in the United States, whether directly through the ownership of phosphate leases, permits and applications therefor or interests in them, or indirectly through association membership or stock ownership. In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease or permit shall be such party's proportionate part of the total lease and permit acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage except that no person shall be charged with his pro rata share of any acreage holding of any association or corporation unless he is the beneficial owner of more than ten per centum of the stock or other instruments of ownership or control of such association or corporation.

(2) All leases will be issued on Form 4–1110[2] for a primary term of twenty years and so long thereafter as the lessee complies with the terms and conditions of the lease. All prospecting permits will be issued on Form 4–1515[2a] for a primary term of two years and may be extended for such an additional period, not in excess of four years, as the Bureau of Land Management deems advisable, if it is found that the permittee has been unable, with reasonable diligence, to determine the existence or workability of phosphate deposits in the permit lands and desires to prosecute further prospecting, or for other reasons warranting such an extension in the opinion of the Bureau of Land Management.

(b) A lessee, upon a showing that the leased deposits extend into adjoining Federal lands may, upon application to be filed in the Land Office, be granted, subject to the acreage limitation under paragraph (a)(1) of this section, a lease for additional acreage, if the authorized officer of the Bureau of Land Management, after consultation with the Mining Supervisor of the Geological Survey shall determine that the increased acreage will result in conservation of natural resources and will provide for the most economical and efficient recovery of a minable deposit without waste. In applying this paragraph, fringe acreage in an area not of interest to more than one operator, and lacking sufficient reserves of phosphate deposits to warrant independent development, may be leased noncompetitively without publication either by separate lease or by adding to an existing leasehold (within the aggregate limitation of 2,560 acres), subject to a bonus of not less than $1 an acre, a minimum royalty, and such other terms and conditions as may be determined at

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[1] The rule of approximation applies to applications for prospecting permits or leases only where elimination of the smallest legal subdivision involved would result in a deficiency of area under 2,560 acres greater than the excess over 2,560 acres resulting from the inclusion of such subdivision.

[2] A copy of the lease form, as well as the other forms mentioned in this part, may be obtained from any land office or the Director, Bureau of Land Management, Washington 25, D.C.

[2a] Filed as part of F.R. Doc. 61-9534.

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the time the lease offer is made. If, however, the fringe acreage has sufficient reserves to warrant independent development, or, if, following appropriate inquiry of operators in the area and consultation with the Mining Supervisor, the authorized officer of the Bureau of Land Management determines that there is competitive interest therein, the lands will be offered competitively under § 196.17.

§ 196.3 Qualifications of applicant.

(a) As used in this section, "applicant" means an applicant for a permit under § 196.5, for a lease under §§ 196.2(b) and 196.11, the high bidder to whom a lease is awarded under § 196.18, or an assignee or transferee under § 196.22.

(b) Permits and leases may be issued to citizens of the United States, associations of citizens, and corporations organized under the laws of the United States or of any State or Territory thereof.

(c) All applicants must file in the proper land office specified in § 196.12(a), the following:

(1) If an individual, a statement as to citizenship indicating whether native born or naturalized.

(2) If an association (including a partnership), a certified copy of the articles of association and the same showing as to citizenship and acreage holdings of its members as required of an individual.

(3) If a corporation, a statement showing:

(i) The State in which it is incorporated;

(ii) That it is authorized to hold permits and leases of the mineral for which the permit or lease is sought and the person executing an instrument on behalf of the corporation is authorized to act in such matters;

(iii) The percentage of voting stock, of all the stock owned by aliens, and of all the stock owned by those outside of the United States. If more than 10 percent of the stock is owned or controlled by or on behalf of such persons, the corporation must give their names and addresses, the amount and class of stock held by each and, to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each;

(iv) The name, address, citizenship, and acreage holdings of any stockholder owning or controlling 20 percent or more of the stock of any class of the corporation;

(4) A statement that holdings do not exceed the acreage limitation specified in § 196.2(a)(1).

(d) Where the information required under paragraph (c) of this section has previously been filed, a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

§ 196.4 Protection of pre-existing mining claims.

Mining claims for deposits described in § 196.1(a) which were valid on February 25, 1920, if duly maintained, may be patented under the law under which they were initiated. Otherwise, such deposits may be secured only under the act.

§ 196.5 Application for prospecting permit.[3]

(a) The act of March 18, 1960 (Pub. Law 86–391, 74 Stat. 7), authorizes, among other things, the issuance of phosphate prospecting permits. All applications for such a permit shall be filed in duplicate in the office specified in § 196.12(a). A filing fee of $10, which is not returnable, and full payment of the first year's rental in the amount specified in § 196.7, must accompany the application. No specific form is required but the application should:

(1) Contain the applicant's name and address and his qualifications as to citizenship and acreage holdings as set forth in § 196.3(c) (1), (2), (3) and (4).

(2) Contain a description of the lands for which permit is desired as specified in § 196.12(a)(2).

(b) All applications must be signed by the applicant or his attorney in fact, and if executed by an attorney in fact must be accompanied by the power of attorney and the applicant's own statement as to his citizenship and acreage holdings unless the power of attorney specifically authorizes and empowers the attorney in fact to make such statement or to execute all statements which may be required under these regulations. Where such power of attorney is filed reference thereto may be made upon the filing of subsequent applications. Applications on behalf of a corporation must be accompanied by proof of the signing officer's authority to execute the instrument.

(c) All applications filed on or after March 18, 1960, the date of enactment of P.L. 86–391 (74 Stat. 7), including applications filed on and after the effective date of these amendatory regulations, will be considered with respect to priority in accordance with the time of filing such applications in the appropriate land office.

(d) All applications filed in the manner specified in § 295.8 of this chapter, will be deemed simultaneously filed.

§ 196.6 Rights conferred.

Two-year permits grant the permittee the exclusive right to prospect and explore the lands described therein to determine the existence of or workability of the phosphate deposits. Only such material may be removed from the land as is necessary to experimental work or the demonstration of the existence of valuable phosphate deposits.

§ 196.7 Permit rental.

A permittee shall pay an annual rental of 25 cents an acre or fraction thereof covered by his permit, but not less than $20 per year, such annual payment of rental shall be made on or before the anniversary date of the permit. The payment of such rental will be required as to permits issued upon applications filed prior to the effective date of these amendatory regulations.

§ 196.8 Permit bond.

Prior to the issuance of a permit the applicant must furnish a bond of not less than $1,000, with approved corporate surety (Form 4–1130), or his personal bond in similar amount (Form 4–1131) secured by negotiable Federal securities in the amount of the bond.

§ 196.9 Extension of permit.

Phosphate permits may be extended by an authorized officer of the Bureau of Land Management for an additional period, not in excess of four years, as he deems advisable, if he finds, after consultation with the Mining Supervisor of the Geological Survey, that the permittee has been unable, with reasonable diligence, to determine the existence or workability of phosphate deposits covered by the permit and desires to prosecute further prospecting or exploration, or for other reasons warranting such an extension. An application for extension shall be filed in duplicate in the proper land office within the period beginning 90 days prior to the date of expiration of the permit. The application must be accompanied by a $10 filing fee which is not returnable, and must show what efforts, if any, the permittee has made to comply with the terms of his permit and the reasons for failure to comply therewith. The application must also show how much additional time is considered necessary to complete prospecting work. Upon failure of permittee to file such an application within the specified period, the permit will expire without notice to the permittee.

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[3] 18 U.S.C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

§ 196.10 Availability of lands for further permit applications where a permit is canceled, relinquished or terminated.

Where the lands embraced in a canceled or relinquished permit are not withdrawn from leasing, such lands become available for, and subject to, filing of new permit applications immediately upon notation of the cancellation or relinquishment on the official status records. If prior to such notation the term of a permit would have expired in the absence of the cancellation or relinquishment, the lands shall, upon such expiration of the permit term, become subject to the filing of permit applications even though the notation of the cancellation or relinquishment has not been made on the records.

§ 196.11 Reward of discovery under permit.

(a) A permittee who, prior to the expiration of his permit, shows to the Secretary that valuable phosphate deposits have been discovered upon the land covered by the permit is entitled to a preference right lease for all or part of the land, in a reasonably compact form. An application for preference right lease shall be filed in duplicate in the proper land office not later than 30 days after the permit expires. The application must describe the lands desired, show any change in the information contained in the application for permit, specify fully the extent and mode of occurrence of the deposits as disclosed by the prospecting work, and show that valuable phosphate deposits were discovered before the permit expired. The application must be accompanied by the first year's rental at the rate of 25 cents per acre or fraction thereof. The lease will be dated the first day of the month following the date of the decision notifying the applicant that he is entitled to a preference right lease, unless otherwise specified therein. If the permit expires and the application for lease is finally rejected, royalty for the deposits mined will be charged at the permit rate and such mining will not constitute a trespass.

(b) The survey of unsurveyed lands embraced in the permit will be made at the expense of the Government prior to the issuance of a lease of the lands.

(c) If the permittee dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed; if probate has been completed, or is not required, to the heirs or devisees; and if there are minor heirs or devisees, to their legal guardian or trustee in his name, provided there is filed in all cases the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person, who as executor or administrator submits forms of lease and bond, has authority to act in that capacity and to sign such forms.

(ii) Evidence that the heirs or devisees are the heirs or devisees of the deceased permittee and are the only heirs or devisees of the deceased.

(iii) A statement over the signature of each heir or devisee concerning citizenship and holdings similar to that required by § 196.3(c) (1) and (4).

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the permittee and citing the provisions of the law of the deceased's last domicile showing no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to citizenship and holdings similar to that required by § 196.3(c) (1) and (4), except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(3) Where there is a legal guardian or trustee:

(i) A certified copy of the court order authorizing the guardian or trustee to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; statements by the guardian or trustee as to the citizenship and holdings of each of the minors and as to his own citizenship and holdings, including his holdings for the benefit of other minors similar to that required by § 196.3(c) (1) and (4).

§ 196.12 Application for lease by competitive bidding.

(a) Applications shall be filed, in duplicate, in the proper land office in the State, or for lands in a State in which there is no land office, shall be filed with the Bureau of Land Management, Washington 25, D.C., except applications for lands in North or South Dakota shall be filed in the land office at Billings, Montana; applications for lands in Nebraska or Kansas, shall be filed in the land office at Cheyenne, Wyoming; and for lands in Oklahoma, in the land office at Santa Fe, New Mexico. A filing fee of $10, which is not returnable, must accompany the application. No specific form is required, but the application should include the following.

(1) The applicant's name and address.

(2) A complete and accurate description of the lands for which the lease is desired. If the lands have been surveyed under the public land rectangular system, each application must describe the lands by legal subdivision, section, township, and range. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all applications to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys. If the lands have neither been surveyed on the ground nor shown on the records as protracted surveys, each application must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the land are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska the description of unsurveyed lands must be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by any agency of the United States (such as the United States Geological Survey, the Coast and Geodetic Survey, or the International Boundary Commission), if the record position thereof is available to the general public.

(3) To the extent such information is known to the applicant, a description of the phosphate and associated or related mineral deposits in the land based upon such actual examination as can be effected without an injury to the land or deposits (such examination shall not be deemed a trespass), giving nature and extent of the deposits; an outline in general terms of the proposed method of mining and processing the same; the proposed investment in mining operations thereon, and processing facilities therefor.

(4) Evidence showing in sufficient detail that:

(i) The amount of phosphate lands, Federal and non-Federal, held by him, together with the lands described in the application are necessary for his proposed development plan.

(ii) He intends to explore, mine and develop the property in good faith.

(iii) His proposed operations of the property will be in accordance with good conservation practice and this additional development is needed in order to supply an existing demand which cannot otherwise be reasonably met.

(b) The application must be signed by

applicant, or by his attorney-in-fact supported by the power of attorney.

§ 196.13 Lease bond.

A compliance bond, in no event less than $5,000, with approved corporate surety (Form 4–1113), or the lessee's personal bond in similar amount (Form 4–1114), will be required prior to the issuance of a lease. Personal bonds must be accompanied by negotiable Federal securities in the amount of the bond. The right is reserved at any time before or after issuance of the lease to require an increase of the amount of the bond, whether a corporate or personal bond, in any case where the Bureau of Land Management deems it proper to do so.

§ 196.14 Minimum production.

Each lease will contain appropriate conditions fixing a minimum annual production of the leased deposits beginning with the fourth year from date thereof or payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, casualties not attributable to the lessee, or upon a satisfactory showing that market conditions are such that the lessee cannot operate except at a loss. When authorized in the lease the minimum production requirements may be satisfied by production from other properties controlled by the lessee and constituting a necessary reserve so located as to be a part of a successful unit operation.

§ 196.15 Lessee's petition for change in minimum production.

The lessee may request at any time prior to the end of the thirtieth lease month, that the Secretary reduce the amount of the minimum production specified in the lease upon the basis of the showing submitted by the lessee. The petition must be filed in duplicate with the office from which his lease was delivered. It should give, among other relevant information, (a) his estimate of tonnage of mineral phosphate rock and associated or related minerals in the leased land, (b) all available information as to the grade thereof, (c) his plan of operation for the property and adjacent property to be worked therewith, (d) a general statement of the method or methods which he intends to use in mining and processing of the phosphate rock and associated or related minerals, (e) the estimated rate of its extraction and (f) possible absorption in the markets. Within six months after receipt of this information the authorized officer, after considering what would be a reasonable period within which to mine the leased deposits taking into account, where material, the lessee's mining operations on adjacent phosphate land owned or controlled by him, will determine whether the minimum production requirement in the lease shall be changed to a lesser figure than the amount then provided.

§ 196.16 Offer of lands or deposits for lease by competitive bidding.

If the authorized officer shall determine, after consultation with the Mining Supervisor of the Geological Survey that specific lands or deposits, not under an outstanding permit or application for preference right lease, which constitute an acceptable leasing unit are subject to phosphate lease, they will be offered for such lease on the terms and conditions to be specified in the notice of lease offer to the qualified person who offers the highest bonus by competitive bidding either at public auction or by sealed bids as provided in the notice of lease offer.

§ 196.17 Notice of lease offer.

Notice of the offer of lands for lease will be by publication once a week for four consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated. The notice will show the time and place of sale; whether the sale will be at public auction or by sealed bids; the description of the lands; and the place where a detailed statement of the terms and conditions of the lease offer and the obligations of the high bidder to pay for publication of that notice may be obtained. It will also contain a statement that sealed bids may not be modified or withdrawn unless the modification or withdrawals are received prior to the time fixed for opening of the bids. The detailed statement will set forth the terms and conditions of the sale, including the manner in which bids may be submitted, and statements (a) that the high bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice of lease offer which shall be that portion of the total advertising cost that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared; (b) that the terms of minimum production will not be reduced or waived at the leesee's request except as provided in § 196.14, § 196.15, § 191.25, or § 191.26, or upon a satisfactory showing that market conditions are such that the lessee cannot operate except at a loss; (c) that the lease will be canceled if production, or the construction of production facilities, including processing plants, is not commenced by the beginning of the fourth year of the lease; and (d) that the Government reserves the right to reject any and all bids. The detailed statement will also contain a warning to all bidders against violation of 18 U.S.C. 1860, which prohibits unlawful combination or intimidation of bidders.

§ 196.18 Bidding requirements; deposits.

(a) At a sale by oral auction the high bidder must deposit with the officer conducting the sale, on the day of the sale, and each bidder at a sale by sealed bids must include with his bid, one-fifth of the amount of his bid.

(b) At the close of an oral auction, or the opening of sealed bids, the officer conducting the sale, subject to the right to reject any and all bids, will award the lease to the high bidder, who will be notified accordingly.

(c) All deposits must be made in cash or by certified check, cashier's check, bank draft, or money order, and the bid shall be accompanied by a statement over the bidder's own signature with respect to citizenship and holdings as prescribed in § 196.3(c) (1), (2), (3) and (4). Deposits made on rejected or unsuccessful bids will be returned to the bidders.

§ 196.19 Action after lease offer.

If the land is surveyed, four copies of the lease will be sent to the high bidder and he will be required within 30 days from receipt thereof to execute them, pay the balance of the bonus bid, the first year's rental and the cost of publication of the notice of lease offer as specified in § 196.17, and file a bond as required by § 196.13. The lease will be dated the first day of the month following its issuance unless the high bidder requests that it be dated the first day of the month of issuance. If the land is unsurveyed, the high bidder will not be required to comply with the requirements of this paragraph until the land has been surveyed and the plat of such survey accepted and officially filed. Such survey will be at the expense of the Government. If the high bidder fails to comply with the requirements necessary to complete the lease or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under the act. If the lease is executed by an attorney acting in behalf of the bidder, it must be accompanied by the power of attorney. If the bidder dies before the lease is issued, there must be furnished satisfactory evidence such as specified in § 196.11(c), in order that the authorized officer of the land office may determine to whom the lease may be issued.

§ 196.20 Use of silica, limestone or other rock.

Any lease to develop and extract phosphates, phosphate rock, and associated or related minerals under the provisions of the act shall provide that the lessee may use so much of any deposit of silica or limestone or other rock situated on any public lands embraced in the lease as may be utilized in the processing or refining of the leased deposits or deposits from other lands upon payments of such royalty as may be determined by the authorized officer, which royalty may be stated in the lease when issued, or, may be provided for by an attachment to the lease to be duly executed by the lessor and the lessee.

§ 196.21 Payments and reports.

(a) Rentals under all leases or permits shall be paid to the authorized officer of the proper land office, except that rentals and royalties on productive leases shall be paid to the appropriate Mining Supervisor of the Geological Survey. All remittances to the authorized officer of the land office shall be made payable to the Bureau of Land Management, those to the Mining Supervisor shall be made payable to the United States Geological Survey.

(b) All reports concerning operations shall be filed with the Mining Supervisor.

§ 196.22 Assignments of leases and permits or interests therein.

(a) Leases and permits may be assigned or subleased as to all or part of the lands involved to any person or corporation qualified to hold phosphate leases and permits. The approval of an assignment or transfer of only part of the lands described in a permit or lease will create a separate permit or lease of the lands assigned or transferred which will be given a current serial number, but a discovery on lands under one permit will not inure to the benefit of the other. The approval of such an assignment will not extend the life of the permit or the readjustment periods of the lease. Assignments of permits and leases, whether by direct assignment, operating agreements, working or royalty interests, subleases, or otherwise must be filed for approval at the proper land office within 90 days after execution. Evidence of the qualifications of the assignee or transferee to hold the permit or lease, as required by §§ 196.3 and 196:12 (a) (4) and (b), must be submitted simultaneously. Assignments of record title interests must be filed in duplicate. A single executed copy of all other instruments of transfer is sufficient. An assignment will take effect the first day of the month following its final approval by the Bureau of Land Management, or if the assignee requests, the first day of the month of approval.

(b) An application for approval of any instrument transferring a lease, permit, or interest therein, must be accompanied by a $10 filing fee. An application not accompanied by such a fee will not be accepted. The fee will not be returned even though the application is later withdrawn or rejected.

(c) Where an assignment does not create separate leases or permits, the assignee must submit a new bond, or the consent of the surety on the bond of record to the substitution of the assignee as principal. If the assignment is for part of the land covered by a lease or permit, the assigned portion must be definitely described and the exact area given, and there must be submitted: (1) The consent of the surety to the assignment and its agreement to remain bound as to the interest retained by the lessee or permittee, and (2) a new bond with the assignee as principal covering the portion of the land assigned.

(d) The assignor or sublessor and his surety will continue to be responsible for the performance of any obligation under the lease or permit until the effective date of the assignment or sublease. If the assignment or sublease is not approved, their obligations to the United States shall continue as though no such assignment or sublease had been filed for approval. After approval the assignee or sublessee and his surety will be responsible for the performance of all lease or permit obligations notwithstanding any term in the assignment or sublease to the contrary.

(e) In order for the heirs or devisees of a deceased holder of a lease or permit, an operating agreement, or a royalty interest in a lease or permit, to be recognized by the Bureau of Land Management as the holder of the lease or permit, agreement or interest, there must be furnished the appropriate showing required under § 196.11(c).

(f) No assignment will be approved if the assignee fails to file the evidence required by this section and the account under the lease or permit is not in good standing. A minor, except a minor heir or devisee of a lessee or permittee, is not qualified to hold a lease or permit and an assignment to a minor will not be approved.

§ 196.23 Limitation on overriding royalties.

An overriding royalty interest shall not be created by assignment or otherwise exceeding one percent of the gross value of the output at point of shipment to market or an overriding royalty interest which when added to any other overriding royalty interest exceeds that percentage, excepting that where an interest in the leasehold, permit, or operating agreement is assigned, the assignor may retain an overriding royalty interest in excess of the above limitation if he shows to the satisfaction of the authorized officer that he has made substantial investments for improvements on the land covered by the assignment.

§ 196.24 Readjustment of terms and conditions at end of twenty-year periods.

The terms and conditions of a lease may be readjusted at the end of each twenty-year period succeeding the date of the lease. Prior to the expiration of that period, the lessee will be advised of the reasonable readjustment of terms proposed or notified that no readjustment is to be made for the next period. The lessee may file his consent to such proposed readjustment or inform the authorized officer as to the terms which are unsatisfactory. After considering the suggestions of the lessee, the authorized officer shall make his determination as to the reasonable readjustment of terms to be effective for the twenty-year period under consideration.

§ 196.25 Relinquishment of lease.

Upon a satisfactory showing that the public interest will not be impaired, the lessee may surrender the entire lease or any legal subdivision thereof. A relinquishment must be filed in duplicate in the appropriate land office. Upon its acceptance it shall be effective as of the date it is filed, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to provide for the preservation of any mines or productive works or permanent improvement on the leased lands in accordance with the regulations and terms of the lease.

§ 196.26 Cancellation of lease.

If the lessee shall fail to comply with the provisions of the act, or of the general regulations promulgated and in force at the date of the lease, or at the effective date of any readjustment of the terms and conditions thereof under § 196.24 or make default in the performance or observance of any of the terms, covenants, and stipulations of the lease and such default shall continue for 30 days after service of written notice thereof by the lessor, then the lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of the lease as provided in section 31 of the act. A waiver of any particular cause of forfeiture shall not prevent the cancellation and forfeiture of the lease for any other cause of forfeiture, or for the same cause occurring at any other time.

§ 196.27 Use permits for additional lands.

(a) A lessee or permittee may be granted a right to use the surface of not exceeding 80 acres of unappropriated and unentered public land not included within the boundaries of a national forest as may be necessary for the proper extraction, treatment, or removal of the leased deposits. The annual charge for the use of such land will be not less than $1 per acre or fraction thereof.

(b) Applications for permits for such additional land shall be filed in the office specified in § 196.12(a). A filing fee of $10, which is not returnable, must accompany each application. Such applications must set forth the specific reasons why the additional land is necessary to the permittee or lessee for the use named, describe the land desired in accordance with § 196.12(a)(2), and also set forth the reasons why the land is desirable and adapted to the use named, either in point of location, topography, or otherwise, and that it is unoccupied and unappropriated. The application must also contain an agreement to pay the annual charge prescribed in the permit. Use permits will be issued on Form 4-1111 and dated as of the first day of the month after its issuance unless the permittee or lessee requests that it be dated the first day of the month of issuance.

STEWART L. UDALL,
Secretary of the Interior.

JUNE 5, 1961.

[F.R. Doc. 61-5429; Filed, June 12, 1961; 8:47 a.m.]

This Circular replaces Circular 2005, and certain sections of Circulars 2001 and 2040.

GPO 913966

Title 43—PUBLIC LANDS: INTERIOR

replaced by
Circular 2078
4-30-62

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular No. 2065]

PART 192—OIL AND GAS LEASES

Minimum Royalty, and Continuation of Lease

1. Section 192.81 is amended to read as follows:

§ 192.81 Minimum royalty.

On leases issued on or after August 8, 1946, and on those issued prior thereto if the lessee files an election under section 15 of the act of August 8, 1946, a minimum royalty of $1 per acre in lieu of rental, shall be payable at the expiration of each lease year after a discovery has been made on the leased lands, commencing with the lease year, beginning on or after the date of such discovery, except that on unitized leases the minimum royalty shall be payable only on the participating acreage. If the actual royalty paid during any year aggregates less than $1 per acre the lessee must pay the difference at the expiration of the lease year.

2. Section 192.120a is amended to read as follows:

§ 192.120a Continuation of lease as a result of actual drilling operations commenced prior to, and continuing at the end of the term.

Any lease on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities. As used in this section "primary term" means all periods in the life of the lease prior to its extension by reason of production of oil or gas in paying quantities.

STEWART L. UDALL,
Secretary of the Interior.

AUGUST 14, 1961.

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Circular Distribution List

GPO 916921

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 2066]

PART 195—SODIUM PERMITS AND LEASES; USE PERMITS

Miscellaneous Amendments

1. Section 195.3 is amended to read as follows:

§ 195.3 Area and limitation on holdings.

(a) Except where the rule of approximation applies,[2] a lease or permit may not include more than 2,560 acres in reasonably compact form entirely within an area of six miles square or within an area not exceeding six surveyed or protracted sections in length or width. No person, association or corporation may hold at any one time more than 5,120 acres in any one State, except as hereinafter stated, whether directly through ownership of leases, permits and applications therefor, or indirectly as a member of an association or as a stockholder of a corporation holding leases, permits and applications therefor.

(b) Where necessary in order to secure the economic mining of sodium compounds, the authorized officer may, in his discretion and after consultation with the Mining Supervisor, permit a person, association, or corporation to hold up to 15,360 acres in any one State, upon submittal of but not necessarily limited to the following information and evidence as proof that the additional acreage is necessary for such purpose:

(1) Whether such person, association, or corporation holds sodium leases and permits covering fee, railroad and State lands within the same area of its public land holdings under sodium leases and permits, and if so, the description of those lands and the amount of acreage involved.

(2) The reasons why the additional public lands covering acreage in excess of 5,120 acres are actually necessary to secure an economic mining unit.

(3) A log of all wells drilled for sodium deposits on the lands which such person, association, or corporation holds under sodium lease or permit, together with an analysis of the ore discovered therein.

(c) In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease or permit shall be such party's proportionate part of the total lease and permit acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage except that no person shall be charged with his pro rata share of any acreage holding of any association or corporation unless he is the beneficial owner of more than ten per centum of the stock or other instruments of ownership or control of such association or corporation.

2. Section 195.8 is amended to read as follows:

§ 195.8 Application for permit, and issuance of permit.

(a) To obtain a sodium prospecting permit, an application must be filed in quintuplicate in the appropriate land office on Form 4–1492,[3] or on an exact reproduction thereof. The form or an exact reproduction will constitute the permit when signed by the authorized officer of the land office. The application must be filed in accordance with the regulation in effect at the date of filing.

(b) Each application should be filled in on a typewriter or printed plainly in ink and signed in ink by the applicant or the applicant's duly authorized attorney in fact. An application may be made by a legal guardian or trustee in his name for the benefit of a nonalien minor or minors but an application may not be filed by a minor. Each application must contain a description of the land as prescribed in § 195.17(a)(2). Except where the rule of approximation applies, all applications must be for an area of not more than 2,560 acres of land in reasonably compact form as specified in § 195.3.

(c) Each application, when filed, must be accompanied by:

(1) A filing fee of $10 which is not returnable, and full payment of the first year's rental in the amount specified in paragraph (h) of this section.

(2) If the applicant is an association or corporation, the evidence specified in § 195.4(c) (2) and (3), respectively, and (4). If the acreage holdings of a corporation or members of an association exceed 5,120 acres in the State in which the lands applied for are situated, the information and evidence specified in § 195.3(b) (1), (2), and (3).

(3)(i) Except in a case where an officer of a corporation signs an application on behalf of the corporation, as to which see § 195.4(c)(3), evidence of the authority of the attorney in fact to sign the application and permit, if the application is signed by such attorney on behalf of the applicant.

(ii) If such applicant is an individual, a statement over the applicant's signature setting forth the applicant's citizenship and acreage holdings, direct and indirect, in sodium leases, permits and applications therefor in the State in which the lands applied for are situated. If such holdings exceed 5,120 acres, the same information and evidence required of a corporation or members of an association.

(4) If the application is made by a guardian or trustee, the evidence specified in § 195.12(c)(3)(i).

(d)(1) Except as provided in subparagraph (3) of this paragraph, an application will be rejected if:

(i) The land description does not conform with the requirements of § 195.17(a)(2), or the land is not in reasonably compact form as specified in § 195.3.

(ii) The total acreage exceeds 2,560 acres, except where the rule of approximation applies.

(iii) The full amount of the filing fee and the first year's rental do not accompany the application, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision.

(iv) The application is signed by an attorney in fact on behalf of the applicant and is not accompanied by the evidence and statement required by paragraph (c)(3) of this section.

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[2] A larger area may be granted under the "rule of approximation" in those States covered by the public land rectangular survey system. That rule applies to applications for prospecting permits only where elimination of the smallest legal subdivision involved would result in a deficiency of area under 2,560 acres greater than the excess over 2,560 acres resulting from inclusion of such subdivision.

[3] A copy of this (filed as part of original document), as well as of every other form mentioned in this part, may be obtained from any land office or from the Director, Bureau of Land Management, Washington 25, D.C.

(v) The application is signed by a guardian or trustee on behalf of a minor and is not accompanied by the evidence specified in § 195.12(c)(3)(i).

(vi) Less than five copies of the application are filed.

(vii) There is noncompliance with the requirements specified in § 195.4(c) (1), (2), (3) and (4).

(2) If an application is defective to the extent set out in paragraph (d)(1) of this section, the applicant will be given an opportunity to file a new application within thirty days from service of the rejection, and the fee and rental payments on the old application will be applied to the new application if the new application shows the serial number of the old application. The advance rental will be returned unless within the thirty-day period another application is filed.

(3) An application for permit on a form not correctly reproduced, but which contains the statement that the applicant agrees to be bound by the terms and conditions of the form in effect at the date of filing, will be approved by the authorized officer provided all other requirements are met.

(e) The United States will indicate its acceptance of the application, in whole or in part, and the issuance of the permit by the signature of the authorized officer in the space provided therefor. An executed copy of the permit will be mailed to the applicant at the address of record.

(f) If the applicant dies before the permit is issued, evidence such as specified in § 195.12(c) must be filed before it can be determined to whom the permit may be issued.

(g)(1) An applicant whose application is pending on the effective date of this section, as amended, may file a new application on Form 4–1492 for the land described in his application, pursuant to paragraphs (a), (b) and (c) of this section, but without payment of the required filing fee, if it has already been paid.

(2) When required, the holder of an application pending on the effective date of this section, as amended, must within 30 days from receipt of notice, file an application on Form 4–1492 covering the same land in, and bearing the same serial number as his pending application. He must also pay the first year's rental in the amount specified in paragraph (h) of this section. No additional filing fee will be required. Failure to refile will result in the rejection of the original application without further notice.

(h) A permittee must pay an annual rental of 25 cents an acre or fraction thereof covered by his permit, but not less than $20 per year, such annual payments of rental shall be made on or before the anniversary date of the permit. However, if the time for payment falls upon any day in which the proper land office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. Payment of rental will also be required on all permits issued pursuant to applications filed prior to the effective date of this section, as amended.

3. Section 195.9 is amended to read as follows:

§ 195.9 Term of prospecting permit; rights conferred.

Prospecting permits are issued for a period of two years and grant the permittee the exclusive right to prospect and explore the lands involved to determine the existence of, or workability of, the sodium deposits therein. Only such material may be removed from the lands as is necessary to experimental work or the demonstration of the existence of such deposits in commercial quantities. The permit will be dated as of the first day of the month after its issuance unless the applicant requests that it be dated the first day of the month of issuance.

4. Section 195.10 is amended to read as follows:

§ 195.10 Permit bond.

Prior to the issuance of a permit the applicant must furnish a bond of not less than $1,000, with approved corporate surety (Form 4–1130), or his personal bond in similar amount (Form 4–1131) secured by negotiable Federal securities in the amount of the bond. A bond will also be required on all permits issued pursuant to applications filed prior to the effective date of this section, as amended.

5. Section 195.11 is amended to read as follows:

§ 195.11 Relinquishment, cancellation, or termination of prospecting permit; availability of lands for further application upon relinquishment, cancellation, or termination of permit.

(a) A permittee may relinquish the entire permit or any legal subdivision thereof. If the lands are not described by legal subdivision, a partial relinquishment must contain the description of the lands surrendered and the exact area thereof. A relinquishment must be filed in duplicate in the appropriate land office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the permittee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the permit lands in accordance with the regulations and terms of the permit.

(b) Except as provided for in subparagraph (1) of this paragraph, if a permittee fails to comply with the general regulations in force at the date of the permit, or defaults with respect to any of the terms or stipulations of the permit, and such failure or default continues for 30 days after service of written notice thereof by the Government then the permit may be cancelled. A waiver of any particular cause for cancellation shall not prevent the cancellation of the permit for any other cause, or for the same cause occurring at any other time.

(1) Any prospecting permit shall terminate automatically if the permittee fails to pay the rental as specified in § 195.8(h).

(2) The termination of the permit for failure to pay rental must be noted on the official records of the appropriate land office. Until such notation is made, the lands covered by the permit are not subject to any other sodium permit. Applications for such permits filed prior to such notation will be rejected.

(c) Where lands embraced in a cancelled or relinquished permit are not withdrawn from leasing, such lands shall become available for the filing of new permit applications immediately upon notation on the official status records of the cancellation or relinquishment of the permit. If prior to such notation the permit expires at the end of its primary term in the absence of cancellation or relinquishment, the lands covered by the permit shall likewise become available for the filing of new applications even though the cancellation or relinquishment has not been noted on the records.

6. Section 195.21 is amended to read as follows:

§ 195.21 Renewal leases.

An application for a renewal lease must be filed in duplicate in the appropriate land office not less than 30 days nor more than 90 days before the lease term expires and be accompanied by a filing fee of $10 which is not returnable. Thereafter, the lessee will be notified of the terms and conditions to be prescribed in the renewal lease. Unless the lessee files written objections to the proposed terms, or files a relinquishment of the lease within 30 days after receipt of such notice, he will be deemed to have agreed to such terms and to the renewal of the lease. Prior to the renewal of the lease, the lessee will be required to submit a satisfactory bond as prescribed in § 195.15.

7. Section 195.26 is amended to read as follows:

§ 195.26 Use permits for additional land.

(a) A permittee or lessee may be granted a right to use, during the life of the permit or lease, the surface of not exceeding 40 acres of unoccupied nonmineral public land not included within the boundaries of a national forest for camp sites, refining works, and other purposes connected with and necessary to the proper development and use of the deposits covered by the permit or lease. The annual rental charge for use of such land will be not less than $1 an acre or fraction thereof. Payment of the rental shall be made at the time specified in § 195.8(h), and will also be required on all use permits issued pursuant to applications filed prior to the effective date of this section, as amended.

(b) Applications for permits to use additional land shall be filed in duplicate in the appropriate land office. Each application must be accompanied by a filing fee of $10 which is not returnable and the first year's rental in the amount specified in paragraph (a) of this section. The applications must contain a description of the land as specified in § 195.17(a)(2), and set forth the reasons why the additional land is necessary to the permittee or lessee for the use named, and whether it is unoccupied and nonmineral. A use permit will be issued on Form 4–1135 and dated as of the first day of the month after its issuance unless the applicant requests that it be dated the first day of the month of issuance.

(c) Any use permit shall terminate automatically if the permittee or lessee fails to pay the rental at the time specified in § 195.8(h).

8. Footnote 3 referred to in § 195.16 is renumbered as Footnote 4.

STEWART L. UDALL,
Secretary of the Interior.

AUGUST 14, 1961.

[F.R. Doc. 61–7964; Filed, Aug. 18, 1961; 8:45 a.m.]

Published in 26 F. R. August 19, 1961 - Effective 30th calendar day following this publication date.

Circular Distribution List

GPO 916920

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER G—EXCHANGES

[Circular No. 2067]

PART 146—EXCHANGES FOR THE CONSOLIDATION OR EXTENSION OF NATIONAL FORESTS

Part 146 is revised in its entirety to read as follows:

Sec.
146.1 Statutory authority.
146.2 Applications for exchange.
146.3 Applicable regulations.

AUTHORITY: §§ 146.1 to 146.3 issued under R.S. 2478; 43 U.S.C. 1201.

CROSS REFERENCE: For exchanges of privately owned lands under the Taylor Grazing Act, see Part 145 of this chapter. For exchanges by States under the Taylor Grazing Act, lands within or outside grazing districts, see Part 147 of this chapter.

§ 146.1 Statutory authority.

The act of March 20, 1922 (42 Stat. 465; 16 U.S.C. 485), as amended, and other acts authorize the United States to convey Federal lands or timber and in exchange therefor to accept title to nonfederal lands which would thereby become a part of the national forest system administered by the Secretary of Agriculture.

§ 146.2 Applications for exchange.

All applications for exchange for the consolidation or extension of national forests must be filed with the appropriate officer of the Forest Service, U.S. Department of Agriculture. When the application involves the selection of public lands outside of national forests and under the administrative jurisdiction of the Bureau of Land Management, the applicant must also file a copy of his application in the proper land office in the State or, for lands in which there is no land office, with the Bureau of Land Management, Washington 25, D.C., except that applications for lands in North Dakota or South Dakota must be filed in the land office at Billings, Montana, applications for lands in Kansas or Nebraska in the land office at Cheyenne, Wyoming, and for lands in Oklahoma in the land office at Santa Fe, New Mexico.

§ 146.3 Applicable regulations.

All applicants for exchange for the consolidation and extension of national forests must comply with the requirements of the Secretary of Agriculture. When the application involves the selection of public lands outside of national forests and under the administrative jurisdiction of the Bureau of Land Management, the applicant, if a State, must also comply with the regulations in Part 147 of this chapter and, if not a State, with the regulations in Part 145 of this chapter, modified to meet the limitations, conditions, and provisions of the law under which the exchange is proposed and of the regulations in this part. Applications filed with the Bureau of Land Management pursuant to the regulations in this part must be accompanied by a service fee, which will not be refunded, amounting to $1 for each 160 acres, or fraction thereof, of the land selected if the applicant is a State, or amounting to $2 for each 160 acres or fraction thereof or $10, whichever is greater, if the applicant is not a State.

STEWART L. UDALL,
Secretary of the Interior.

OCTOBER 13, 1961.

[F.R. Doc. 61-9979; Filed, Oct. 18, 1961; 8:46 a.m.]

Published in 26 F.R. October 19, 1961 - Effective 30th calendar day following this publication date.

Circular Distribution List

This Circular replaces Circulars 1295, 1507, 1752

[illegible]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER G—EXCHANGES

[Circular No. 2067]

PART 148—EXCHANGES FOR THE CONSOLIDATION OR EXTENSION OF NATIONAL FORESTS

Part 148 is revised in its entirety to read as follows:

Sec.
148.1 Statutory authority.
148.2 Applications for exchange.
148.3 Applicable regulations.

AUTHORITY: §§ 148.1 to 148.3 issued under R.S. 2478; 43 U.S.C. 1201.

CROSS REFERENCES: For exchanges of privately owned land under the Taylor Grazing Act, see Part 146 of this chapter. For exchanges by States under the Taylor Grazing Act, lands within or without grazing districts, see Part 147 of this chapter.

§ 148.1 Statutory authority.

The act of March 20, 1922 (42 Stat. 465; 16 U.S.C. 485), as amended, and others authorize the United States to convey Federal lands or timber and in exchange therefor to accept title to non-federal lands which would thereby become a part of the national forest system administered by the Secretary of Agriculture.

§ 148.2 Applications for exchange.

All applications for exchange for the consolidation or extension of national forests must be filed with the appropriate officer of the Forest Service, U.S. Department of Agriculture. When the application involves the selection of public lands outside of national forests and under the administrative jurisdiction of the Bureau of Land Management, the applicant must also file a copy of his application in the proper land office in the State or, for lands in which there is no land office, with the Bureau of Land Management, Washington 25, D.C., except that applications for lands in North Dakota or South Dakota must be filed in the land office at Billings, Montana, applications for lands in Kansas or Nebraska in the land office at Cheyenne, Wyoming, and for lands in Oklahoma in the land office at Santa Fe, New Mexico.

§ 148.3 Applicable regulations.

All applicants for exchange for the consolidation and extension of national forests must comply with the requirements of the Secretary of Agriculture. When the application involves the selection of public lands outside of national forests and under the administrative jurisdiction of the Bureau of Land Management, the applicant, if a State, must also comply with the regulations in Part 147 of this chapter and, if not a State, with the regulations in Part 146 of this chapter, modified to meet the limitations, conditions, and provisions of the law under which the exchange is proposed and of the regulations in this part. Applications filed with the Bureau of Land Management pursuant to the regulations in this part must be accompanied by a service fee, which will not be returned, amounting to $1 for each 160 acres, or fraction thereof, of the land selected if the applicant is a State, or amounting to $2 for each 160 acres or fraction thereof, or $10, whichever is greater, if the applicant is not a State.

STEWART L. UDALL,
Secretary of the Interior.

OCTOBER 12, 1961.

[F.R. Doc. 61-9970; Filed, Oct. 18, 1961; 8:46 a.m.]

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Circular Distribution List

This Circular replaces Circulars 1295, 1507, 1752

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER P—PRACTICE

[Circular 2068]

PART 221—APPEALS AND CONTESTS

1. Sec. 221.53 is amended to read as follows:

§ 221.53 Initiation of contest.

Any person desiring to initiate a private contest must file a complaint in the land office which has jurisdiction over the land involved, or, if there is no such land office, in the Office of the Director, Bureau of Land Management, Washington 25, D.C. The contestant must serve a copy of the complaint on the contestee not later than 30 days after filing the complaint and must file proof of such service, as required by § 221.95, in the office where the complaint was filed within 30 days after service.

2. Paragraphs (f), (g), and (h), are added to § 221.68 as follows:

§ 221.68 Proceedings in Government contests.

* * * * *

(f) Where service is by publication, the affidavits required by § 221.60 need not be filed. The contestant shall file with the Manager a statement of diligent search which shall state that the contestee could not be located after diligent search and inquiry, the last known address of the contestee and the detail of efforts and inquiries made to locate the party sought to be served. The diligent search shall be concluded not more than 15 days prior to filing of the statement.

(g) In lieu of the requirements of § 221.62(b) the contestant shall, as part of the diligent search before the publication or within 15 days after the first publication send a copy of the complaint by Certified Mail, return receipt requested, to the contestee at the last address of record. The return receipts shall be filed in the office in which the contest is pending.

(h) The affidavit required by § 221.63 (c) need not be filed.

JAMES K. CARR,
Acting Secretary of the Interior.

NOVEMBER 2, 1961.

[F.R. Doc. 61-10639; Filed, Nov. 6, 1961; 8:52 a.m.]

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/Repl by C-2161/

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER S—RIGHTS-OF-WAY

[Circular 2069]

PART 244—MISCELLANEOUS RIGHTS-OF-WAY

Miscellaneous Amendments

1. The heading to Part 244 is revised as shown above, and a cross-reference is added as set forth below, Subpart M is revoked, and § 244.21 is revised.

2. The cross reference is added to read as follows:

CROSS REFERENCES: For easements for public works, see Part 9 of this title. For rights-of-way, Alaska, see Part 74 of this chapter. For logging roads rights-of-way, revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands in Oregon, see Part 115 of this chapter. For rights-of-way for railroad and station grounds, see Part 243 of this chapter. For rights-of-way over Indian lands, see Indians, 25 CFR, Part 256.

3. Section 244.21 is revised to read as follows:

§ 244.21 Payment required; exceptions; default; revision of charges.

(a) Except as provided in paragraphs (b) and (c) of this section, the charge for use and occupancy of lands under the regulations of this part will be the fair market value of the permit, right-of-way, or easement, as determined by appraisal by the authorized officer. Periodic payments or a lump-sum payment, both payable in advance, will be required at the discretion of such officer: (1) When periodic payments are required, the applicant will be required to make the first payment before the permit, right-of-way, or easement will be issued; (2) upon the voluntary relinquishment of such an instrument before the expiration of its term, any payment made for any unexpired portion of the term will be returned to the payer upon a proper application for repayment to the extent that the amount paid covers a full permit, right-of-way, or easement year or years after the formal relinquishment: *Provided*, That the total rental received and retained by the Government for that permit, right-of-way, or easement, shall not be less than $25. The amount to be so returned will be the difference between the total payments made and the value of the expired portion of the term calculated on the same basis as the original payments.

(b) Except as provided in paragraph (c) of this section, the charge for use and occupancy of lands under the regulations of this part shall not be less than $25 per five-year period for any permit, right-of-way, or easement issued.

(c) No charge will be made for the use and occupancy of lands under the regulations of this part:

(1) Where the use and occupancy are exclusively for irrigation projects, municipally operated projects, or nonprofit or Rural Electrification Administration projects, or where the use is by a Federal governmental agency.

(2) Where the permit, right-of-way, or easement is granted under the regulations in Subparts B, C, G, and H of this part.

(d) If a charge required by this section is not paid when due, and such default shall continue for 30 days after notice, action may be taken to cancel the permit, right-of-way or easement. After default has occurred, no structures, buildings, or other equipment may be removed from the servient lands except upon written permission first obtained from the authorized officer.

(e) At any time not less than five years after either the grant of the permit, right-of-way, or easement or the last revision of charges thereunder, the authorized officer, after reasonable notice and opportunity for hearing, may review such charges and impose such new charges as may be reasonable and proper commencing with the ensuing charge year.

(f) The provisions of this section shall not have the effect of changing, modifying, or amending the rental rates or charges imposed for existing water power projects under rights-of-way previously approved by this Department.

(31 Stat. 790, 36 Stat. 1253, 28 Stat. 635, sec. 4, 33 Stat. 628, sec. 28, 49 Stat. 678; 43 U.S.C. 959, 961, 956, 16 U.S.C. 524, 30 U.S.C. 185)

JAMES K. CARR,
Acting Secretary of the Interior.

NOVEMBER 7, 1961.

[F.R. Doc. 61-10903; Filed, Nov. 15, 1961; 8:47 a.m.]

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replaced by 2075

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER H—GRAZING

[Circular 2070]

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Issuance of Licenses and Permits

1. Section 161.6 is amended by the revision of paragraph (e) (3) and by adding subparagraph (5) to paragraph (f) as follows:

§ 161.6 Issuance of licenses and permits.

* * * * *

(e) *Terms and conditions.* * * *

(3) No license or permit will confer grazing privileges in excess of the grazing capacity of the Federal range to be used, as determined by the district manager, except as may be allowed under paragraph (f) (3) and (5) of this section.

* * * * *

(f) *Reduction.* * * *

(5) When the district manager determines that the potential grazing capacity, with improvements, of a Federal range area is significantly greater than the present grazing capacity, he may, after obtaining advice from the advisory board, issue a current license for active use not to exceed the animal unit months of forage presently available, and issue a non-use license for the difference between the use allowable by the limits of the present grazing capacity and the potential. This difference will be held in a suspense status as reflected in the non-use portion of the license, provided that the aggregate of active and non-use priveleges shall not exceed the extent of the base property qualifications of the licensee or permittee. Thereafter, when the district manager determines that a significant portion of the potential grazing capacity has been attained, he may increase the active authorized use under the license or permit to that extent.

STEWART L. UDALL,
Secretary of the Interior.

DECEMBER 7, 1961.

[F.R. Doc. 61-11809; Filed, Dec. 13, 1961; 8:45 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

replaced by 2075

[Circular 2071]

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Miscellaneous Amendments

1. Section 161.12 is amended as indicated below:

a. Paragraph (b) is amended to read as follows:

(b) *Violations clearly willful; special circumstances.* Whenever it appears to the district manager that a violation is clearly wilful, grossly negligent, or repeated, or when the public health, safety, or interest requires, or when disciplinary action is advisable, the district manager will refer the matter directly to the State Director for further action under paragraph (c) or (e) of this section, whichever is appropriate.

b. The caption of paragraph (c) is amended and new subparagraphs (2) and (4) are added, as follows. The present subparagraph (2) is revised and renumbered (3). The present subparagraph (3) is renumbered (5).

) *Unlawful grazing on the Federal range; determination of damages; removal of livestock; impoundment.* * * *

(2) Where the owner of the trespassing livestock, or his representative, is known, the district manager shall make a determination of the damage to the Federal range and other property of the United States and shall make a demand for payment upon the alleged violator, setting forth the foregoing values including the value of the forage consumed. Where the trespass grazing is not deemed to be clearly wilful the forage value shall be computed at the rate of $2 per animal unit month, or at the commercial rate if such rate is the higher; if the district manager deemes the trespass grazing to be clearly wilful, grossly negligent, or repeated he shall compute the forage value at $4 per animal unit month, or at twice the commercial rate if such amount is the higher.

(3) In any case where neither the owner of the trespassing livestock, or his representative, is known, or where conservation of the Federal range and of the forage thereon requires it, the district manager, when so authorized by written order of the State Director, may take steps to remove the trespassing livestock by such methods and by such means not inconsistent with legislation which prohibits the use of airborne or motor-driven vehicles in the gathering of horses or burros, as may be necessary, and to dispose of them by sale or otherwise within not less than five (5) days after public notice of his intention to make such disposition, subject to the right of any owner or registered lienholder of such trespassing livestock to redeem the livestock within such nondisposal period upon payment of:

(i) The damage to the Federal range and other property of the United States.

(ii) The cost of such impoundment and removal.

(iii) The value of any forage consumed as determined in accordance with subparagraph (2) of this paragraph.

(4) If the amounts found to be due the United States in accordance with subparagraph (3), subdivisions (i), (ii), and (iii) of this paragraph are contested by the owner of the livestock, his representative, or lienholder, the trespassing livestock may be redeemed by the posting of a cash or corporate surety bond in lieu of immediate payment. Such bond will be adequate to insure full satisfaction of the claims made. A hearing will then be scheduled before an examiner of the Bureau of Land Management. The hearing will be conducted so far as practicable in the same manner as other hearings before an examiner. The evidence will be confined to the determination of the amount of damages, value of the forage consumed, and any other amounts considered to be due the United States as a result of said trespass. The examiner will render a written decision assessing the amounts due.

c. Paragraph (d) is amended to read as follows:

(d) *Amicable settlement of civil cases involving unauthorized use of the Federal range or damage to Federal property.* Offers of settlement for the value of the forage consumed in trespass as determined in accordance with paragraph (c) (2) of this section and for damage to Federal range or to other property of the United States resulting from an alleged violation of any provisions of the act or of the Federal Range Code for Grazing Districts in the amount of $2,000 or less may be accepted by the district manager. Offers of settlement in excess of $2,000 will be transmitted to the State Director for appropriate action. An offer of settlement will not constitute satisfaction of civil liability for the consumed forage and damage involved until finally accepted by the district manager or the State Director. Satisfaction of civil liability does not relieve the alleged violator of any criminal liability under Federal law. No license or permit will be issued or renewed until payment of any amount found to be due the United States under this section has been offered.

d. Subparagraphs (1) and (2) of paragraph (e) are amended to read as follows:

(e) *Disciplinary action for violations; show cause.* (1) Whenever it appears to the State Director that disciplinary action is advisable because of a wilful, grossly negligent, or repeated violation, he shall cause a written notice to be served upon the licensee or permittee. The notice shall set forth the act or acts complained of, specifically referring to the terms, conditions, or provisions of the license or permit and the section or sections of the Federal Range Code for Grazing Districts, or of the Act alleged to have been violated, and an estimate of the amount of damages resulting therefrom, including the value of the forage consumed, as determined in accordance with paragraph (c)(2) of this section. The notice will cite the license or permittee to appear before an examiner of the Bureau of Land Management at a designated time and place to show cause why his license, permit, or base property qualifications should not be reduced or revoked or renewal thereof denied and satisfaction of damages made.

(2) The hearing upon the order to show cause will be conducted so far as practicable in the same manner as other hearings before an examiner. The evidence shall be confined to the commis-

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This Circular replaces Circular No. 2058 sion of the acts charged and the amount of damages, including the value of any forage consumed, due the United States. If the alleged violation is established to the satisfaction of the examiner, or upon the failure, without proper excuse satisfactory to the examiner, of the person named in the notice or his representative to appear at the hearing, the examiner will render a written decision assessing the amount of damages, including the value of any forage consumed, as determined in accordance with paragraph (c)(2) of this section, and directing the district manager to suspend, reduce, or revoke the license, permit, or base property qualifications or to deny renewal, if the facts so warrant.

2. Paragraphs (f), (g), and (h) of § 161.13 are amended to read as follows:

§ 161.13 Grazing district advisory boards.

* * * * *

(f) *State Advisory Boards.* The livestock members of each grazing district advisory board shall select from their number at the first meeting of the board after each election, two members and two alternates to serve on a State advisory board for the State in which the district is located; where the district advisory board has representation for cattle and horses, and sheep and goats, then only one representative and one alternate representing each class shall be selected. The wildlife members of the advisory boards within each State will select one of their number and one alternate to serve as a wildlife member on the State advisory board. In addition, the State advisory board will have one or more additional members, but not exceeding seven, who will represent other interests such as forestry, minerals, soil conservation, outdoor recreation, urban and suburban development, county government, and State government. Such additional members and their alternates will be selected by the State Director from nominations made by State or local government officers or organizations reflecting nonlivestock interests in the management or disposition of public lands. The time and place for meetings of the State advisory board shall be set by the State Director. The board shall select from its members one member to be chairman of the board. The co-chairman of the board shall be the State Director.

(g) *National Advisory Board Council.* The livestock members of each State advisory board shall select from their number, at its first meeting of each new term, one representative and one alternate representing cattle and horses, and one representative and one alternate representing sheep and goats, to serve on a National Advisory Board Council. The elected wildlife member or his alternate on each State advisory board will serve on the National Advisory Board Council as the State representative on wildlife matters. The State Director from each of the ten Western States with organized grazing districts shall submit a list of nominees, selected from the nonlivestock and nonwildlife membership on the State board, to the Secretary of the Interior or his authorized representative for consideration in the selection of nonlivestock and nonwildlife representatives on the Council. Such nonlivestock and nonwildlife membership on the Council shall not exceed ten in number. In addition to the above membership, one representative from each of the States of Alaska and Washington will be selected by the Secretary of the Interior or his authorized representative from a list submitted by the respective State Directors pursuant to nominations made by State or local government officers or organizations reflecting interests in grazing or other uses of public lands. The Council shall select from its members one member to be chairman of the Council. The co-chairman of the Council shall be an official of the Department of the Interior appointed by the Secretary of the Interior who shall set the time and place for such meetings of the National Advisory Board Council.

(h) *Functions and duties of State advisory boards and National Advisory Board Council.* The State advisory boards shall consider and make recommendations on grazing, wildlife, forestry, outdoor recreation, minerals, soil conservation, urban and suburban development, and any other resource administration policies or problems affecting the State as a whole. Similarly, the National Advisory Board Council shall consider and make recommendations on policies and problems of a national scope related to all natural resource use and management. The operations of the State boards and the National Council, including their meetings, shall conform to the committee management requirements of the Secretary of the Interior as set forth in the Departmental Manual.

STEWART L. UDALL,
Secretary of the Interior.

DECEMBER 7, 1961.

[F.R. Doc. 61-11810; Filed, Dec. 13, 1961; 8:45 a.m.]

portions relating to
43 CFR Part 192
replaced by
Circular 2078
4-30-62

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 2072]

SUBCHAPTER A—ALASKA

PART 61—CERTIFICATES AND SCRIP

PART 64—HOMESITES OR HEADQUARTERS

PART 66—ENTRIES ON COAL, OIL, AND GAS LANDS

PART 81—TRADE AND MANUFACTURING SITES

SUBCHAPTER B—APPLICATIONS AND ENTRIES

PART 102—AGRICULTURAL ENTRIES ON MINERAL LANDS

SUBCHAPTER I—MINERAL LANDS

PART 192—OIL AND GAS LEASES

1. Section 61.3 is amended to read as follows:

§ 61.3 Coal, oil, or gas lands.

Lands in soldiers' additional rights applications that may be valuable for coal, oil or gas deposits are subject to the regulations of Part 66 of this chapter.

2. Sections 64.1, 64.5(h) and 64.12(f) are amended to read as follows:

§ 64.1 Statutory authority.

The act of March 3, 1927 (44 Stat. 1364; 48 U.S.C. 461), as amended, authorizes the sale as a homestead or headquarters of not to exceed five acres of unreserved public lands in Alaska at the rate of $2.50 per acre, to any citizen of the United States 21 years of age employed by citizens of the United States, association of such citizens, or by corporations organized under the laws of the United States, or of any State or Territory, whose employer is engaged in trade, manufacture, or other productive industry in Alaska, and to any such person who is himself engaged in trade, manufacture or other productive industry in Alaska. The lands must be nonmineral in character except that lands that may be valuable for coal, oil, or gas deposits are subject to disposition under the provisions of the act of March 8, 1922 (42 Stat. 415; 48 U.S.C. 376–377), as amended.

§ 64.5 Form and contents of applications.

* * * * *

(h) That no part of the land is valuable for mineral deposits other than coal, oil or gas, and that at the date of location no part of the land was claimed under the mining laws.

§ 64.12 Form and contents of application.

* * * * *

(f) That no part of the land is valuable for mineral deposits other than coal, oil or gas, and that at the date of location no part of the land was claimed under the mining laws.

3. Part 66 is revised to read as follows:

Sec.
66.1 Statutory authority.
66.2 Reservation of coal, oil, or gas to the United States; practice and procedure.
66.3 Rights of prior mineral permittees or lessees.
66.4 Obligations of subsequent mineral permittees or lessees; bonds for prospecting damages; bonds for mining damages.
66.5 Use of coal by the nonmineral claimant.

AUTHORITY: §§ 66.1 to 66.5 issued under 72 Stat. 730; 48 U.S.C. 376, 377.

§ 66.1 Statutory authority.

(a) The act of March 8, 1922 (42 Stat. 415), as amended August 23, 1958 (72 Stat. 730; 48 U.S.C. 376, 377), referred to in §§ 66.1 to 66.5 of this part as "the act of 1922," provides that (1) in Alaska, homestead, including soldiers' additional homestead, homesite, headquarters site, and trade and manufacturing site claims may be initiated by actual settlers on public lands which are known to contain workable coal, oil, or gas deposits or that may be valuable for the coal, oil, or gas contained therein, and which are not otherwise reserved or withdrawn; (2) such claims initiated in good faith may be perfected under the appropriate public land laws and, upon satisfactory proof of full compliance with these laws, the claimant shall be entitled to patent to the lands entered by him, which patent shall contain a reservation to the United States of all the coal, oil, or gas in the land patented, together with the right to prospect for, mine, and remove the same; and (3) should it be discovered at any time prior to the issuance of a final certificate on any claim initiated for unreserved lands in Alaska that the lands are coal, oil, or gas in character, the patent issued on such entry shall contain the reservation referred to in subparagraph (2) of this paragraph.

(b) The act of May 17, 1906 (34 Stat. 197), as amended August 2, 1956 (70 Stat. 954; 48 U.S.C. 357), permits, subject to the provisions of the act of 1922, homestead allotments to Indians, Aleuts, and Eskimos of vacant, unappropriated, and unreserved lands in Alaska that may be valuable for coal, oil, or gas deposits and the act of August 17, 1961 (75 Stat. 384), permits the Secretary of the Interior to sell under the provisions of section 2455 of the Revised Statutes (43 U.S.C. 1171), as amended, lands in Alaska known to contain workable coal, oil, or gas deposits, or that may be valuable for the coal, oil, or gas contained therein, and which are otherwise subject to sale under said section 2455, as amended, upon the condition that the patent issued to the purchaser thereof shall contain the reservation required by section 2 of the act of 1922. (See Part 250 of this Title.)

(c) Section 2 of the act of 1922 provides (1) the coal, oil, and gas deposits reserved under the act shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits, or coal, oil, or gas lands in Alaska,

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in force at the time of such disposal; (2) any person qualified to acquire coal, oil, or gas deposits, or the right to mine and remove the coal, or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times[1] to enter upon the lands as provided by the act for the purpose of prospecting for coal, oil, or gas upon the approval, by the Secretary of the Interior, of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting; (3) any person who has acquired from the United States the coal, oil, or gas deposits in any such land or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove the oil or gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking, in an action instituted in any competent court to ascertain and fix the said damages.

§ 66.2 Reservation of coal, oil, or gas to the United States; practice and procedure.

The act of 1922 extends to Alaska the principles of the acts of March 3, 1909 (35 Stat. 844; 30 U.S.C. 81), June 22, 1910 (36 Stat. 583; 30 U.S.C. 83–85), and July 17, 1914 (38 Stat. 509; 30 U.S.C. 121–123), which, among other things, govern agricultural entries on coal, oil, or gas lands in States other than Alaska. The general instructions under these acts relating to the reservation of coal, oil, or gas to the United States as set forth in Part 102 of this chapter will, therefore, be followed in matters of practice and procedure.

§ 66.3 Rights of prior mineral permittees or lessees.

If prior to the date of the initiation of a claim that is subject to the provisions of the act of 1922, the land was embraced in an oil and gas lease, or a coal permit or lease, or an application for or offer of such a lease or permit, the land will be subject to the right of such prior mineral permittee or lessee, or of such prior applicant for or offeror of a mineral permit or lease, to occupy and use so much of the surface of the lands as may be reasonably required for mineral leasing operations, without liability to the entryman, allottee, or patentee for crop and improvement damages resulting from such mineral activity.

§ 66.4 Obligations of subsequent mineral permittees or lessees; bonds for prospecting damages; bonds for mining damages.

(a) Any coal permit applicant or noncompetitive oil and gas lease offeror whose application or offer was filed subsequent to the date of the initiation of a claim that is subject to the provisions of the act of 1922 must file with the appropriate Land Office Manager a waiver from, or a consent of, the claimant, or a bond or undertaking on Form 4–1130 for coal applicants and Form 4–208g for oil and gas offerors for the payment of all damages to the crops and improvements on the lands caused by the prospecting.

(b) There must be filed with the bond or undertaking required by the preceding paragraph, evidence of service of a copy thereof upon the claimant. The bond must be executed by the prospector as principal and by a corporate surety which has been approved as required by section 1 of the act of July 30, 1947 (61 Stat. 646; 6 U.S.C. 1–15), in the sum of $1,000. Where surety bonds are tendered with individuals as sureties, they must be executed by not less than two qualified individual sureties. Each surety must execute a statement showing that he is worth $2,000 in real property not exempt from execution, over and above his just debts and liabilities and that he is either a resident of the same State or Territory and the United States Judicial District as the principal on the bond, or of the United States Judicial District in which the lands involved are located. There also must be furnished a certificate by a judge or clerk of a court of record, a United States Attorney, a United States Commissioner, or a United States Postmaster, as to the identity, signature, and financial competency of the sureties. The statement of justification required to be furnished by the sureties, and the certificate of competency must be on Form 4–215.

(c) Bonds or undertakings executed pursuant to the provisions of § 66.1(c) (3) must not be filed with the Bureau of Land Management. Such bonds or undertakings are to be arranged for as specified in that subparagraph.

§ 66.5 Use of coal by the nonmineral claimant.

A claimant under the act of 1922 may, at any time prior to the disposal by the United States of the coal deposits on his claim, make use of them for his domestic purposes and this may be done without the filing of any application therefor. This privilege does not, however, authorize the mining of the coal deposits for the purpose of barter or sale.

4. Section 81.1 and 81.6(e) are amended to read as follows:

§ 81.1 Statutory authority.

Section 10 of the act of May 14, 1898 (30 Stat. 413, as amended August 23, 1958 (72 Stat. 730; 48 U.S.C. 461), authorizes the sale at the rate of $2.50 per acre of not exceeding 80 acres of land in Alaska possessed and occupied in good faith as a trade and manufacturing site. The lands must be nonmineral in character, except that lands that may be valuable for coal, oil, or gas deposits are subject to disposition under the act of March 8, 1922 (42 Stat. 415; 48 U.S.C. 376–377), as amended, and the regulations of Part 66 of this chapter.

§ 81.6 Facts to be shown in application.

* * * * *

(e) That no part of the land is valuable for mineral deposits other than coal, oil or gas, and that at the date of location no part of the land was claimed under the mining laws.

5. Section 102.22 is amended to read as follows:

§ 102.22 Procedure on reports as to oil and gas, involving nonmineral entries, prior to proof, or after proof and prior to patent.

(a) Where the Geological Survey reports that land embraced in a nonmineral entry or claim on which final proof has not been submitted or which has not been perfected is in an area in which valuable deposits of oil and gas may occur because of the absence of reliable evidence that the land is affected by geological structure unfavorable to oil and gas accumulation, the entryman or claimant will be notified thereof and allowed a reasonable time to apply for reclassification of the land as nonmineral, submitting a showing therewith, and to apply for a hearing in event reclassification is denied, or to appeal. He must be advised that, if a hearing is ordered, the burden of proof will be upon him, and also that, if he shall fail to take one of the actions indicated, his entry or claim and any patent issued pursuant thereto will be impressed with a reservation of oil and gas to the United States.

(b) In a case where acceptable final proof has been submitted, or a claim has been perfected, and the Geological Survey thereafter makes report as in the above or similar form, such report will not be relied upon as basis for a mineral reservation unless the Government is prepared to assume the burden of proving, prima facie, that the land was known to be of mineral character, at the date of acceptable final proof or when the claim was completed, according to the established criteria for determining mineral from nonmineral lands, among which may be those recognized by the

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[1] After the issuance of, and pursuant to, a lease or permit therefor.

Supreme Court in the case of United States v. Southern Pacific Company et al. (251 U.S. 1, 64 L. ed. 97). If the Government is thus prepared to assume such burden of proof, the Bureau of Land Management will notify the entryman of the mineral classification and that a hearing will be ordered if he manifests disagreement with the classification within a reasonable period. The entryman or claimant will be advised that in the event hearing is had, the burden of proof will be upon the Government; also, that, if he shall fail to make answer within the time allowed, the entry or claim and any patent issued pursuant thereto will be impressed with a reservation of oil or gas to the United States.

Cross Reference: For Geological Survey, classification of public coal lands, see 30 CFR Part 201.

6. Section 192.71(b) is amended to read as follows:

§ 192.71 Lands in entries or claims not impressed with a reservation of oil and gas.

(192) this portion replaced by Circular 2078 4-30-62

* * * * *

(b) Should the land be found to be prospectively valuable for oil or gas, the entryman or settler will be notified thereof and allowed a reasonable time to apply for reclassification of the land as nonmineral, submitting a showing therewith, and to apply for a hearing in the event that reclassification is denied, or to appeal. If he does neither, or he is unsuccessful, the entry or settlement rights and any patent issued pursuant thereto will be impressed with a reservation of oil and gas to the United States. In such circumstances a lease will be granted to the offeror, all else being regular, unless the entryman or settler has a preference right. See § 102.22 of this chapter.

Stewart L. Udall,
Secretary of the Interior.

December 12, 1961.

[F.R. Doc. 61-11978; Filed, Dec. 18, 1961; 8:46 a.m.]

GPO 9 23552

Circular 2073
replaced by 2075

Fed. Range Code

SUBCHAPTER H—GRAZING

[Circular 2073]

RT 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

On page 6853 of the FEDERAL REGISTER of August 1, 1961, there were published proposed amendments to § 161.6, 161.7 161.8, 161.9, 161.10, and 161.17, Code of Federal Regulations, providing regulations to guide the apportionment of increased grazing capacity and to correct certain technical defects in the existing regulations. Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed regulations.

No objections have been received. A minor addition is required to make the exception set forth in § 161.6(e) (9) (i) complete. Accordingly the amendments are adopted without change except the last portion of subparagraph (i) of § 161.6(e) (9) is amended as follows: "* * * use has been reduced under (f) (1) (iii), (3) and (5) of this section, or § 161.12(e)". The amendments shall become effective at the beginning of the 30th calendar day following the date of publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

DECEMBER 20, 1961.

1. Paragraph (e) (9), subdivision (i), and paragraph (g) of § 161.6 are revised as follows:

§ 161.6 Issuance of licenses and permits.

* * * * *

e) *Terms and conditions.* * * *

(9) Base property qualifications, in whole or in part, will be lost upon the failure for any two consecutive years:

(i) To include in an application for a license or permit or renewal thereof, the entire base property qualifications for active, nonuse, or combination of active and nonuse, except where the base property qualifications are included in an outstanding current term permit, or where the allowable use has been reduced under paragraph (f) (1) (iii), (3), and (5) of this section, or § 161.12(e).

* * * * *

(g) *Allotments; agreements; increases.* (1) Allotments of Federal range will be made to licensees or permittees when conditions warrant. Division of the range by agreement or former practice will be followed where practicable, provided such division is in substantial conformity with the qualifications for grazing privileges of the respective applicants and the agreement is reduced to writing and approved by the district manager.

(2) Increases in grazing capacity, when conditions warrant, and after recommendation of the advisory board and approval of the district manager, will be apportioned in a manner that will assist in the stabilization of livestock operations controlling qualified base property, with emphasis being given to the restora[illegible] of reductions that have been im[illegible]sed to reach the grazing capacity of a particular allotment or range area, and to allocation of increased grazing capacity to operators or interests whose efforts were responsible for such increases.

2. Paragraph (a) (1) of § 161.7 is revised as follows:

§ 161.7 Transfers of base property; base property qualifications; relinquishments.

(a) *Transfer of base property; effect.* (1) A transfer of a base property or part thereof, whether by agreement, operation of law, or testamentary disposition, will entitle the transferee, if qualified under § 161.3(a), to so much of the grazing privileges as are based thereon. Except as otherwise herein provided, the existing license or permit and the grazing privileges thereunder shall automatically and without further notice be terminated or decreased by such transfer to the extent of the grazing privileges attaching to the transferred base property; except that further grazing under the license or permit may be temporarily extended pursuant to request and notification filed in accordance with § 161.6 (e) (8) (i); except, also, where the transfer arises as a result of testamentary disposition the existing license or permit may continue in effect until the end of the current grazing season. Thereafter applications for renewal of a license or permit shall be filed by the heirs, devisees, executor, administrator, or personal representative, as the case may be.

3. Paragraph (c) of § 161.8 is revised as follows:

§ 161.8 Fees; time of payment; refunds.

* * * * *

(c) *Crossing permits.* Upon application filed with the district manager by any person showing the necessity for crossing the Federal range with livestock for proper and lawful purposes, a crossing permit may be issued to him at a charge, payable in advance, of one cent per head per day for cattle, two cents per head per day for horses, and one-fifth cent per head per day for sheep and goats. A minimum charge of $5 will be made for each crossing permit, except that no fee will be charged where the trail to be used is so limited and defined that no substantial amount of forage will be consumed in transit.

4. Paragraph (a), subparagraph (4), and paragraphs (b) and (c) of § 161.9 are revised as follows:

§ 161.9 Procedure in applications; protests.

(a) *Filing and consideration of applications; interdistrict agreements; recommendations; service of notice.* * * *

(4) The advisory board will make its recommendation to the district manager and, if such recommendation is to any extent adverse, it shall set forth the reasons therefor. If such recommendation is favorable and the district manager approves, he will notify the applicant by ordinary mail, which notice may be the fee billing. If the advisory board recommendation is favorable but the district manager disagrees, notice will be served on the applicant in person or by certified mail sent to his address of record, setting forth the recommendation of the advisory board and the manager's disapproval, together with the reason or reasons for a prospective adverse decision, including a reference to the pertinent sections or provisions of the Federal Range Code for Grazing Districts in which the application is deficient, and naming a date, not less than ten days thereafter, on or before which oral or written protest may be presented to the district manager. If the recommendation of the board is to any extent adverse, notice will be served on the applicant in person or by certified mail sent to his address of record, setting out the reason or reasons given by the advisory board for the adverse recommendation, including a reference to the pertinent sections or provisions of the Federal Range Code for Grazing Districts in which the application is deficient, and naming a place and date, not less than ten days thereafter, when protest against the recommendation will be heard. The district manager may also serve notice on any other applicant or applicants who may be directly affected by the adoption of the advisory board recommendation or the prospective decision of the manager which will allow an appropriate protest. In any case where consideration of an application involves only issues previously adjudicated involving the same applicant or his predecessors in interest, the same base property and the same area of use, the advisory board may recommend that a protest meeting not be held, whereupon the district manager may accept the recommendation of the board as its final consideration.

(b) *Protests; reconsideration by advisory board; service of notice.* At the time and place fixed for the protest meeting, any licensee, permittee, or applicant may appear, in person or by attorney or other representative, or may file a written protest with the advisory board, which thereupon will reconsider its previous recommendation in the light of the protest and will make a final recommendation to the district manager. If such recommendation is favorable to the protestant, and the district manager approves, he will notify the protestant thereof by ordinary mail, which notice may be the fee billing. If the recommendation is to any extent adverse, and the district manager approves, a notice giving the reason or reasons therefor will be served on the protestant in person or by certified mail, including a reference to the pertinent sections or provisions of the Federal Range Code for Grazing Districts that serve as controlling factors. Such notice will constitute the district manager's final decision for purposes of appeal.

(c) *Allowance or rejection of application; modification; service of notice.* The district manager, in the light of all facts and circumstances and after reference to the advisory board, may issue or refuse to issue a grazing license or permit. When the district manager takes an adverse action on any application, a notice including a recital of the specific reasons for the action taken will be served on the applicant in person or by certified mail. The notice

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER A—ALASKA

[Circular 2074]

PART 63—GRAZING

The following new sections are added to Part 63:

REINDEER GRAZING

Sec.
63.31 Statutory authority.
63.32 Definitions.
63.33 Application for grazing permit; Bureau of Indian Affairs certification of reindeer assignment; source of reindeer other than Government; listing of improvements.
63.34 Lands subject to grazing permit.
63.35 Filing fee; grazing fee.
63.36 Qualifications of applicants.
63.37 Rights reserved; public land laws applicable.
63.38 No right acquired by applicant prior to issuance of grazing permit.
63.39 Term of grazing permit; renewals.
63.40 Grazing permits to designate range to be used.
63.41 Maximum number of reindeer.
63.42 Adjustment of grazing permit area.
63.43 Report of grazing operations; assignments.
63.44 Crossing permits.
63.45 Permits for construction and maintenance of improvements; fences.
63.46 Termination of grazing permit; cancellation.
63.47 Removal of improvements and other property.
63.48 Protests.
63.49 Location, settlement, entry, and other disposition of lands included in grazing permit; notice to permittee of disposition and reduction of permitted area.
63.50 Appeals.
63.51 Trespass.

REINDEER GRAZING

§ 63.31 Statutory authority.

Section 12 of the Act of September 1, 1937 (50 Stat. 902; 48 U.S.C. 250k), authorizes the Secretary of the Interior to promulgate such rules and regulations as, in his judgment, are necessary to carry into effect the provisions of 48 U.S.C. 250–250n.

§ 63.32 Definitions.

(a) "Reindeer" includes reindeer and such caribou as have been introduced into animal husbandry or have actually joined reindeer herds and the increase thereof.

(b) "Natives" include the native Indians, Eskimos, and Aleuts of whole or part blood inhabiting Alaska at the time of the Treaty of Cession of Alaska to the United States and their descendants of whole or part blood, together with the Indians and Eskimos who, since the year 1867 and prior to September 1, 1937, have migrated into Alaska from the Dominion of Canada, and their descendants of whole or part blood.

(c) "Bureau" means Bureau of Land Management.

(d) "Director" means Director, Bureau of Land Management.

(e) "Authorized Officer" means the Bureau official who has been authorized to issue a reindeer grazing permit.

(f) "The Act" means the Act of September 1, 1937 (50 Stat. 902; 48 U.S.C. 250, 250a–250p).

§ 63.33 Application for grazing permit; Bureau of Indian Affairs certification of reindeer assignment; source of reindeer other than Government; listing of improvements.

(a) An application for a grazing permit must be executed in duplicate on a form approved by the Director and filed in the Bureau office which has jurisdiction over lands applied for.

(b) A certification of reindeer allotment to the applicant, signed by the authorized Bureau of Indian Affairs officer, must accompany the application if the applicant is to receive a herd from the Government.

(c) If reindeer are to be obtained from a source other than the Government, the applicant should state the source and show evidence of his purchase or option to purchase.

(d) With the initial application for any grazing permit issued under these regulations, the applicant must list by location and description the improvements found in the area under application which are owned by the applicant. Such statement of ownership will be verified by a Bureau of Indian Affairs official prior to submitting it to the Bureau of Land Management. Such existing improvements will be permitted by the terms of the initial grazing permit. Improvements to be constructed subsequent to the issuance of the initial grazing permit must be under permit in accordance with § 63.45.

§ 63.34 Lands subject to grazing permit.

Vacant and unreserved and unappropriated public lands are subject to inclusion in a reindeer grazing permit. Where these lands are within the natural migration routes of caribou, or when they have other important wildlife values, the lands may be included in a permit, at the discretion of the authorized officer after consultation with the Bureau of Sport Fisheries and Wildlife, subject to such special terms and conditions as may be jointly agreed upon. Public lands which have been withdrawn for any purpose may also be included in a grazing permit with the prior consent of the Department or agency having administrative jurisdiction thereof, and subject to such additional terms and conditions as such Department or agency may impose.

§ 63.35 Filing fee; grazing fee.

A filing fee of $10 must accompany each application for a reindeer grazing permit or application for renewal thereof. No grazing fee will be charged.

§ 63.36 Qualifications of applicants.

An applicant is qualified if he is a native or group, association or corporation of natives as defined by the Act of September 1, 1937, organized under the laws of the United States or the State of Alaska.

§ 63.37 Rights reserved; public land laws applicable.

(a) Grazing permits under §§ 63.31–63.51 shall be subordinated to higher uses and subject to modification or reduction by the authorized officer to the extent necessary to allow:

(1) The protection, development and utilization, under applicable laws and regulations, of the mineral, timber, water and other resources on or in the lands included in the grazing permit, including their use for agriculture.

(2) The allowance of applications for and the acquisition of homesites, easements, permits, leases, or other rights and uses pursuant to applicable public land laws.

(3) The temporary closing of portions of the permitted area to grazing whenever, because of improper handling of the reindeer, overgrazing, fire, or other cause, such action is deemed necessary to restore the range to its normal condition.

(b) No permittee may so enclose roads, trails, or highways as to disturb

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public travel thereon, nor interfere with existing communication lines or other improvements on the permitted area; he shall not prevent legal hunting, fishing or trapping on the land, or ingress of miners, mineral prospectors and other persons entitled to enter the area for lawful purposes.

(c) Persons using public lands for grazing of reindeer or for driving of reindeer across such lands must comply with applicable State and Federal laws relative to livestock quarantine and sanitation.

§ 63.38 No right acquired by applicant prior to issuance of grazing permit.

The filing of an application will not segregate the land applied for from application by other persons for a grazing permit, or from other disposition under the public land laws. As the issuance of a grazing permit is discretionary, the filing of an application will not create a right for such a permit, or to the use of the lands applied for pending the issuance of a grazing permit.

§ 63.39 Term of grazing permit; renewals.

(a) Reindeer grazing permits shall be issued for a maximum term of 10 years, except where the applicant desires a shorter term, or where the authorized officer determines that a shorter period will be in the public interest.

(b) Application for renewal of a grazing permit shall be made not less than four months or more than eight months before the expiration date of the permit. The authorized officer may at his discretion offer the permittee a renewed grazing permit containing such terms, conditions, and of such duration as he determines to be in the public interest.

§ 63.40 Grazing permit to designate range to be used.

Permits will restrict grazing use to a definitely described area. Grazing permits will be granted only for such areas as may be deemed adequate and usable according to the needs of the permittee.

§ 63.41 Maximum number of reindeer.

The grazing permit will indicate the maximum number of reindeer which may be grazed on the permitted area, based on range conditions, and will be subject to adjustment as the condition of the range indicates.

§ 63.42 Adjustment of grazing permit area.

The permitted area may be reduced at any time, after not less than 30 days notice to the permittee, when in the opinion of the authorized officer the area is excessive for the number of reindeer grazed thereon. The permit may be increased by the authorized officer on his own motion or upon request of the permittee, when in the opinion of the authorized officer the area is insufficient for the number of reindeer grazed thereon. The permittee shall have opportunity within such notice period to to show cause why the area included in the grazing permit should not be adjusted.

§ 63.43 Report of grazing operations; assignments allowed.

(a) Before April 1 of the second permit year and each year thereafter. the permittee shall file with the authorized officer a report in duplicate of his grazing operations during the preceding year on an approved form.

(b) No part of the land included in the permit may be subleased. Proposed assignments of a permit, in whole or in part, must be filed in duplicate with the authorized officer within 90 days from the date of its execution. Such assignments must contain all of the terms and conditions agreed upon by the parties thereto, accompanied by the same showing by the assignee as to qualifications and a reindeer allotment as is required of applicants for a permit, and by the assignee's statement agreeing to be bound by the provisions of the permit. No assignment shall be effective until approved by the authorized officer.

§ 63.44 Crossing permits.

A permit for the crossing of reindeer over public lands, including lands under grazing permit, may be issued free of charge, upon application filed with the authorized officer at least 30 days prior to the date the crossing is to begin. The application must show the number of reindeer to be driven, date of starting, approximate period of time required, and the land to be traversed.

§ 63.45 Permits for construction and maintenance of improvements; fences.

Application for a permit to construct and maintain range improvements should be filed, in duplicate, with the authorized officer on an approved form. The grazing permittee, upon obtaining a permit from the authorized officer, may construct, maintain and utilize any fence, building, corral, reservoir, well, or other improvement needed for the exercise of the grazing privileges under the grazing permit. The permittee will be required to comply with the laws of the State of Alaska with respect to the construction and maintenance of fences, but any such fence shall be constructed to permit the ingress and egress of miners, prospectors for minerals, and other persons entitled to enter such area for lawful purposes.

§ 63.46 Termination of grazing permit; cancellation.

(a) A grazing permit may be surrendered by the permittee upon prior written notice filed with the authorized officer, effective upon the date indicated in such notice, but not less than 30 days from the date of filing.

(b) A grazing permit may be cancelled by the authorized officer if the permit was issued improperly through error with respect to a material fact or facts, or if the permittee shall fail to comply with any of the provisions of the permit or of §§ 63.31–63.51. No permit shall be cancelled for default in complying with the provisions of the permit or of §§ 63.31–63.51 until the permittee has been notified in writing of the nature of the default and has been afforded an opportunity of not less than 30 days to show why the permit should not be cancelled.

§ 63.47 Removal of improvements and other property.

The permittee, within 90 days from the date of expiration or termination of the grazing permit, or within any extension of such period, shall be allowed to remove all personal property belonging to him, together with any fence, building, corral, or other removable range improvements owned by him. All such property which is not removed within the time allowed shall thereupon become the property of the United States.

§ 63.48 Protests.

Protests against an application for a grazing permit shall be filed in duplicate, with the authorized officer; contain a complete disclosure of all facts upon which the protest is based; and describe the lands involved in such protest. It shall be accompanied by evidence of service of a copy of the protest upon the applicant. If the protestant desires to obtain a grazing permit for all or part of the land embraced in the application against which the protest is filed, the protest shall be accompanied by an application for a grazing permit.

§ 63.49 Location, settlement, entry, and other disposition of lands included in grazing permit; notice to permittee of disposition and reduction of permitted area.

(a) Lands included in grazing permits under the act are subject to settlement, location, and acquisition under the non-mineral public land laws applicable to the State of Alaska.

(b) Upon settlement, location or entry of any lands included within a reindeer grazing permit, the permittee shall be notified of the settlement, location or entry, and the permitted area shall be reduced by the area involved in the settlement, location or entry.

(c) Unless otherwise withdrawn therefrom, lands included in grazing permits under the act are subject to disposition under the mineral leasing laws and to mineral prospecting, location, and purchase under the mining laws, in accordance with the applicable regulations of Parts 69 and 185 of this chapter.

§ 63.50 Appeals.

An appeal may be taken from any decision of the authorized officer to the Director, and from any decision of the Director to the Secretary, pursuant to the rules of practice (Part 221 of this chapter).

§ 63.51 Trespass.

(a) Any use of the Federal lands for reindeer grazing purposes, unless authorized by a valid permit issued in accordance with the regulations in §§ 63.31–63.51, is unlawful and is prohibited.

(b) Any person who wilfully violates any of the rules and regulations in §§ 63.31–63.51 of this part shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by imprisonment for not more than one year, or by a fine of not more than $500.

STEWART L. UDALL,
Secretary of the Interior.

DECEMBER 20, 1961.

[F.R. Doc. 61-12335; Filed, Dec. 28, 1961; 8:46 a.m.]

L-1750

Circular No. 2075

GRAZING REGULATIONS for the NATIONAL LAND RESERVE

U. S. DEPARTMENT OF THE INTERIOR

Stewart L. Udall, Secretary
John A. Carver, Jr., Assistant Secretary,
Public Land Management

BUREAU OF LAND MANAGEMENT

Karl S. Landstrom, Director

January 1962

PREFACE

The regulations contained herein are applicable to the use, management, and protection of the 168,000,000 acres of the national land reserve governed by the provisions of the Taylor Grazing Act of June 28, 1934, as amended and supplemented.

Part 161, the Federal Range Code for Grazing Districts, is applicable to the 152,000,000 acres administered within the Bureau of Land Management's 59 grazing districts. It provides the necessary regulations for intensive management of the national land reserve.

Part 160 provides regulation for the use and management of the 26,000,000 acres that have not been included within grazing districts because of their scattered location pattern. Such lands are used for grazing purposes under lease arrangements.

These regulations now represent many modifications of the original regulations promulgated following passage of the Taylor Grazing Act in 1934. Such amendments have been found necessary to meet more effectively the objectives of the act by improving the orderly use of the land, preventing of overgrazing and range depletion, and stabilizing the livestock industry dependent upon the public range.

Karl S. Landstrom

Director

Part 161— The Federal Range Code for Grazing Districts

Sec.

161.1 Basic policy and plan of administration.
161.2 Definitions.
161.3 Qualifications of applicants.
161.4 Minimum requirements; classification of base properties.
161.5 Rating and classification of Federal range.
161.6 Issuance of licenses and permits.
161.7 Transfers of base property; base property qualifications; relinquishments.
161.8 Fees; time of payments; refunds.
161.9 Procedure in application; protests.
161.10 Appeals and hearings.
161.11 General rules of the range.
161.12 Procedure for enforcement of rules and regulations.
161.13 Grazing District Advisory Boards.
161.14 Local associations of stockmen.
161.15 Construction and maintenance of improvements on the Federal range.
161.16 Special rules for grazing districts.
161.17 Contributions for administration, protection, and improvement of public lands.
161.18 Pledge of licenses and permits as security for loans; application for extension of permit term by borrower-permittee.
161.19 Saving clause.

AUTHORITY: Sections 161.1 to 161.19 issued under sec. 2, 48 Stat. 1270; 43 U.S.C. 315a.

Sec. 161 ¯*Basic policy and plan of administration*—(a) *Purposes; general requirements.* Grazing districts will be administered to conserve and regulate the public grazing lands, to stabilize the livestock industry dependent upon them, and in aid thereof to promote the proper use of the privately controlled lands and waters dependent upon those public grazing lands. In furtherance of these objectives, grazing privileges will be granted with a view to the protection of those livestock operations that are recognized as established and continuing and which normally involve the substantial use of the public range in a regular, continuing manner each year. To promote the highest use of the public lands within grazing districts which have been or hereafter are established, possession or control of sufficient land or water to insure a year-round operation for a certain number of livestock in connection with the use of the Federal range will be required of all users.

(b) *Preference applicants.* Preference in the granting of grazing privileges will be given to those applicants within or near a district who are landowners engaged in a livestock business, bona fide occupants or owners of water or water rights, as may be necessary to permit the proper use of lands, water, or water rights owned, occupied, or leased by them. When the demands of all such preference applicants cannot be satisfied, prior consideration will be given applicants in the manner specified in sec. 161.6. Provision will be made for other applicants so far as Federal range remains available.

(c) *Permits; annual licenses.* Grazing permits may be issued as soon as the necessary data can be obtained or after agreements as to the extent of their individual grazing privileges have been reached by the interested applicants and such agreements have been reduced to writing; a recommendation thereon made by the advisory board, and approval thereof given by the District Manager. No such agreement will be approved unless it appears that it is fair and that it represents a substantial compliance with the provisions of the Federal Range Code for Grazing Districts, and no applicant shall be prejudiced by his failure or refusal to enter into such an agreement. The practice of issuing an annual license will be continued until such time as a permit is issued. Upon the issuance of a permit any outstanding license or part thereof which has been granted on the same qualifications on which the permit is based will terminate. Upon expiration of a term permit an annual license may be issued, pending issuance of a new term permit.

Sec. 161.2 *Definitions.* Wherever used in rules, instructions, or interpretations issued by the Bureau of Land Management in or pursuant to the Federal Range Code for Grazing Districts (this part), unless the context otherwise requires:

(a) The "act" means the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315, 315a–315r), as amended and supplemented.

(b) "The Federal Range Code for Grazing Districts" means all of the rules and regulations pertaining to the administration of grazing districts.

(c) The "Secretary" means the Secretary of the Interior or his authorized agent.

(d) The "Director" means the Director of the Bureau of Land Management or his authorized agent.

(e) "State Director" means the supervising Bureau of Land Management officer for the State in which the particular range lies, or his authorized agent.

(f) "Federal range" means land within established grazing districts administered by the Bureau of Land Management under the Federal Range Code for Grazing Districts (this part), including the vacant, unappropriated, and unreserved public land of the United States chiefly valuable for grazing and forage crops; State, County, and privately owned land leased for such administration; and lands so administered pursuant to a cooperative agreement with the Federal department or agency having jurisdiction over such land.

(g) "Property" means privately owned or controlled land or water used in range livestock operations.

(h) "Base property" means property used for the support of the livestock for which a grazing privilege is sought and on the basis of which the extent of a license or permit is computed.

(i) "Base property qualifications" means the maximum amount of grazing privileges on Federal range properly allowable to base properties in class 1 or class 2.

(j) "Forage land" means land the principal use of which is the production of natural or cultivated feed for livestock.

(k)(1) "Land dependent by use" means forage land other than Federal range of such character that the conduct of an economic livestock operation requires the use of the Federal range in connection with it and which, in the "priority period", was used as a part of an established, permanent, and continuing livestock operation for any two consecutive years or for any three years of such priority period in connection with substantially the same part of the public domain, now part of the Federal range. Such land may be (i) parallel land, i.e., land of the same character, interspersed with, and grazed at the same time as the Federal range on which grazing privileges may be granted, except in those grazing districts which by special rule have excluded parallel land as base property,[1] (ii) land of different character than the Federal range and which properly supports the permitted livestock during all or part of the period that the Federal range is closed to grazing, or (iii) a combination of these two types of land. The priority period shall be the five-year period immediately preceding

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[1] **Such rules were adopted in Montana Grazing District No. 5, Utah Grazing District No. 1, and all grazing districts in Oregon.**

June 28, 1934, except that if such Federal range was placed within a grazing district after June 28, 1938, or added to an existing grazing district by boundary modification after the latter date, the priority period shall be the five years immediately preceding the date of the order establishing such district or effecting such addition, as the case may be.

(2) No land shall be considered as dependent by use unless offered as base property in an application for a grazing license or permit within one year after the date when the Federal range used in creating the dependency by use first became a part of a grazing district, except that if the Federal range used in creating the dependency by use became a part of a grazing district prior to June 28, 1938, such base property shall not be considered as dependent by use unless offered in an application for a grazing license or permit filed prior to said date. Only the last set of base properties used during the priority period by a livestock operation can be invested with dependency by use by such operation.

(3) The extent to which grazing licenses or permits will be granted on the basis of dependency by use of land, shall be governed by the following:

(i) It shall not exceed the average annual amount of forage customarily and properly utilized by the livestock operation computed on the basis of any two consecutive years or any three years in which use was actually made during the priority period, whichever is more favorable to the applicant, on that part of the public land which, at the time of the issuance of the license or permit, is Federal range.

(ii) It shall not exceed the amount of forage needed for the number of livestock creating such dependency by use that were customarily and properly sustained on the base property during the priority period and continue to use such property to the same extent, except that in no instance shall the use of base property be for less than the minimum period established under sec. 161.4. The grazing privileges which may be granted hereunder shall not exceed the amounts determined under subdivision (i) or (ii) of this subparagraph, whichever is the lesser. Where the base property provides forage in excess of that necessary for the proper support of the number of livestock used in creating the dependency by use (class 1) the base property, to the extent of such excess forage capacity, may be treated as dependent by location (class 2) if so qualified.

(iii) Whenever the dependency by use of two or more base properties was created by the use of all or part of the same Federal range, during the same or at different seasons of the year, by two or more livestock operations, the relative dependency by use of each of the base properties shall be proportionate to the average annual use actually and properly made of the Federal range during the priority period by each of the livestock operations.

(l) "Land dependent by location" means forage land other than Federal range, which is so situated and of such character that it can properly be used as a base for an economic livestock operation utilizing the forage resources of the Federal range.

(m) "Animal-unit month" means the amount of natural or cultivated feed necessary for the sustenance of one cow or its equivalent, for a period of one month; as applied to Federal range, it means also the grazing privileges represented by the grazing of one cow or its equivalent for a period of one month. For the purposes of this definition, one cow shall be considered the equivalent of one horse or five sheep or five goats; provided, however, that only for the purposes of establishing fees for grazing privileges under Sec. 161.8 (b), the charge for one horse grazing on the Federal range for one month shall be at twice the rate charged for one cow grazing for the same period.

(n) "Grazing capacity" means the total animal-unit months of forage available from a tract or tracts of forage land during a given period.

(o) "Full-time water" means water which is suitable for consumption by livestock and available, accessible, and adequate for a certain number of livestock during those months in the year for which the range is classified as suitable for use. Such water may be from one source or may be the aggregate amount available from several sources.

(p) (1) "Prior water" is water which, during all or not less than two years of the priority period was used to service certain public domain now part of the Federal range for a livestock operation that was established, permanent, and continuing, and which normally involved the grazing of livestock on the same areas of public land for a certain portion or portions of the years of such use. For the purpose of this definition the priority period shall be the five-year period immediately preceding June 28, 1934, except that in any area placed within a grazing district or added to an existing district by boundary modification after September 23, 1942, the priority period shall be the five-year period immediately preceding the date of the order establishing such district or effecting such addition, as the case may be.

(2) Where a livestock operation used a water or waters during the priority period in such manner as would, in the absence of other factors, have served to invest such water with the attribute of priority, but such livestock operation subsequently ceased using such water or waters and used other water or waters in such manner as to invest them, too, with priority, only the latter water or waters shall be considered as prior, unless the former are also prior because of use by another livestock operation.

(3) No water shall be considered as prior unless offered as base property in an application for a grazing license or permit filed within one year after the public lands which were used in creating the priority first became a part of a grazing district except that when such lands became a part of a grazing district more than one year prior to March 16, 1942, a water shall not be considered as prior unless offered in an application filed prior to that date.

(4) The extent to which grazing privileges will be granted on the basis of the priority of water shall not exceed the average annual amount of forage customarily and properly utilized by the livestock operation computed on the basis of the years in which use was actually made during the priority period, on substantially that part of the public lands within the service area which, at the time of the issuance of the license or permit, is Federal range.

(q) "Service area" means the area that can be properly grazed by livestock watering at a certain water. In determining such area, natural and cultural barriers, recognized habits of livestock, proper livestock practices, and range management factors will be considered.

(r) "Adjudication of grazing privileges" is the determination of the qualifications for grazing privileges of the base properties, land (sec. 161.2(k)(1)) or water (sec. 161.2 (p)(1)), offered in support of applications for grazing licenses or permits in a range unit or area, and the subsequent equitable apportionment among the applicants of the forage production within the proper grazing season and capacity of the particular unit or area of Federal range, and acceptance by the applicants of the grazing privileges based upon the apportionment or its substantiation in a decision by an examiner, the Director, or the Secretary upon appeal. (Applicable provisions are sections 161.1 to 161.5, inclusive; sec. 161.6(a) and (b); sec. 161.6(e)(1) to (4), inclusive; sec. 161.6(f); sec. 161.6(g); sec. 161.9 and sec. 161.10.)

Sec. 161.3 *Qualifications of applicants*-- (a) *Qualifications.* An applicant for a grazing license or permit is qualified if engaged in the livestock business and:

(1) Is a citizen of the United States, or

(2) Has on file before a court of competent jurisdiction a valid declaration of intention

to become a citizen or a valid petition for naturalization, or

(3) Is a group, association, or corporation authorized to conduct business under the laws of the State in which the grazing privileges sought are to be exercised, and the controlling interest in which is vested in persons who would be qualified as individual applicants under subparagraphs (1) or (2) of this paragraph.

(b) *Effect of transfer arising through operation of law.* The acquisition of rights in base property by an unqualified person through operation of law or testamentary disposition will not adversely affect any outstanding license or permit, or preclude the issuance or renewal of a license or permit, based on such property, for a period of two years after such acquisition. Upon the failure of such person to qualify within the two year period the license or permit will be subject to cancellation in accordance with sec. 161.9(d).

Sec. 161.4 *Minimum requirements; classification of base properties.* (a) The District Manager, after recommendation by the advisory board, shall establish minimum base property requirements as a condition of qualification for the issuance of a license or permit in each district or unit thereof, taking into consideration the availability of base properties for proper use with and their relative dependence upon Federal range, land and water conditions, and other factors affecting livestock operations in the area according to customary use and best practices for good range management.

(b) The District Manager after recommendation by the advisory board will classify base properties as land or water and further in the following manner:

Class 1. Land dependent by use, or full-time prior water.

Class 2. Land dependent by location, or full-time water.

Sec. 161.5 *Rating and classification of Federal range*--(a) *Grazing capacity; seasons and maximum annual period of use.* The District Manager, after recommendation by the advisory board, will rate the grazing capacity of each unit or area in a grazing district and will classify each for the proper seasons of use and for the maximum period of time for which any licensee or permittee will be allowed to use the Federal range therein during any one year.

(b) *Wildlife; allowance for maintenance.* In each grazing district a sufficient grazing capacity of Federal range suitable for wildlife will be reserved by the District Manager after consulting with wildlife interests and the advisory board, for the maintenance of a reasonable number of wild game animals, to use the range in common with livestock grazing in the district.

(c) *Designation of ranges for particular kinds of livestock.* The District Manager may designate certain areas for use exclusively by a certain kind or class of livestock when necessary for the proper use or orderly administration of the Federal range.

(d) *Unit-wide or area-wide adjudication.* (1) The District Manager, after recommendation by the advisory board, may make a simultaneous classification under sec. 161.4 of all offered base properties within a single administrative unit or grazing area and may allocate in a single action the available Federal range within the unit or area upon which such base properties are dependent.

(2) The District Manager shall give written notice by certified mail of such classification and allocation to the persons offering such base properties, naming a place and date not less than 30 days thereafter to file protest to the advisory board, in accordance with sec. 161.9(b). Thereafter, and provided there is then pending a valid application for grazing privileges, the District Manager will render his final decision thereon and will allow the right of appeal to the examiner in accordance with sec. 161.10.

(e) *Diminution of available Federal range.* Federal range lands to be used under a license or permit are subject to classification and disposition under the provisions of sections 7 and 14 of the act, and to withdrawal, appropriation, selection, or other disposal under the public land laws. Reasonable notice of a pending or proposed classification, withdrawal or other disposal which might result in a diminution of the available Federal range will be given to the licensee or permittee of such lands, consistent with sec. 296.3 of this chapter, and subject to the right of protest or appeal to the Director and to the Secretary of the Interior as may be provided in such notice and the rules of practice, Part 221 of this chapter.

Sec. 161.6 *Issuance of licenses and permits.* Licenses or permits will be issued in the following order:

(a) *Free-use licenses.* A free-use license will be issued to any free-use applicant for grazing on Federal range in the immediate neighborhood of the applicant's residence for not to exceed the number of livestock owned and kept by him for domestic purposes, that is, livestock whose products are consumed or whose work is directly and exclusively used by the family of the applicant, provided the free-use applicant has adequate facilities for the proper care and maintenance of such domestic livestock on the Federal range.

(b) *Regular licenses and permits; number of livestock.* (1) Regular licenses and permits will be issued to qualified applicants to the extent that Federal range is available in the following preference order and amounts:

(i) To applicants owning or controlling land in class 1, licenses or permits to the extent of the dependency by use of such land; to applicants owning or controlling water in class 1, licenses or permits to the extent of the priority of such water.

(ii) To applicants owning or controlling land or water in class 2, licenses or permits for the number of livestock for which range is available and which can be properly grazed in connection with a livestock operation which involves the use of such land or water.

(2) Any licensee or permittee who desires to use the Federal range for a period or periods other than as authorized by his license or permit may, upon written approval of the District Manager, be allowed to use the amount of his authorized grazing privileges during any period of time for which the Federal range is classified as proper for use, provided:

(i) The total of such use does not exceed the maximum amount of time for which any licensee or permittee is allowed to use the Federal range during any one grazing year;

(ii) The number of animal-unit months of Federal range to be utilized is not thereby increased;

(iii) Such use will not be detrimental to the Federal range, and

(iv) Such use will not adversely affect other licensees or permittees.

(c) *Exchange of use licenses.* Exchange of use licenses may be issued to any applicant having ownership or control of non-Federal land interspersed and normally grazed in conjunction with the surrounding Federal range for not to exceed the grazing capacity of such non-Federal land, without payment of grazing fees, provided that during the term of the license the Bureau shall have the management and control of such non-Federal land for grazing purposes.

(d) *Non-renewable licenses.* Non-renewable licenses may be issued to non-preference applicants only for the period specified by the District Manager and for the number of livestock for which range is temporarily available and which can be properly grazed without detriment to the operations on the range of applicants owning or controlling base properties in class 1 and class 2.

(e) *Terms and conditions.* The issuance and continued effectiveness of all regular licenses and permits will be subject to the following terms and conditions:

(1) The possession or control by the applicant, licensee, or permittee, of feed and forage supplies adequate, with the authorized Federal range use, to support his licensed or permitted livestock for a full year-round operation.

(2) No license or permit will provide for the grazing livestock on the Federal range during that part or parts of the year for which the Federal range has not been classified as proper for use.

(3) No license or permit will confer grazing privileges in excess of the grazing capacity of the Federal range to be used, as determined by the District Manager, except as may be allowed under paragraphs (f)(3) and (5) of this section.

(4) So far as consistent with proper range practices, licenses and permits will confer grazing privileges on the range lands which were used in creating the dependency by use or priority of the base properties involved.

(5) In the event of range depletion resulting from drought or other causes, the grazing privileges that may be exercised under any license or permit may be reduced in whole or in part, and for such period of time as may be necessary.

(6) Upon the diminution of the Federal range to be used under any license or permit due to withdrawal, appropriation, selection, or otherwise, the license or permit may be reduced proportionately to the reduction in available grazing capacity caused by the loss of such Federal range.

(7) If a licensee or permittee for two consecutive years ceases to make substantial use of his base property in connection with his year-round livestock operation, the authorized use under such license or permit and the qualifications of the base property may be subject to reduction in proportion to the diminished use of the base property.

(8) If a licensee or permittee loses ownership or control of:

(i) All or part of his base property, the license or permit, to the extent it was based upon such lost property, shall terminate immediately without further notice from the District Manager; except that, if the licensee or permittee notifies the District Manager, in writing, of such loss within thirty days from the date thereof, such license or permit shall terminate to that extent at the end of the grazing season or grazing year as the District Manager shall determine; or

(ii) All or part of such other lands or grazing privileges as are necessary to his year round operation, the license or permit will be subject to reduction in proportion to the loss of such necessary lands or grazing privileges unless the licensee or permittee notifies the District Manager within 30 days after such loss and thereafter within the time allowed by the District Manager after recommendation by the advisory board acquires ownership or control of other lands or grazing privileges sufficient to assure a year-round operation.

(9) Base property qualifications, in whole or in part, will be lost upon the failure for any two consecutive years:

(i) To include in an application for a license or permit or renewal thereof, the entire base property qualifications for active, nonuse, or combination of active and nonuse, except where the base property qualifications are included in an outstanding current term permit, or where the allowable use has been reduced under paragraphs (f)(1)(iii), (3), and (5) of this section, or sec. 161.12(e).

(ii) To accept a license or permit issued pursuant to such application.

(10) The failure for any two consecutive years to make substantial use as determined by the District Manager, after reference to the advisory board, of all or part of the grazing privileges authorized under a license or permit, may result in the revocation thereof and in the proportionate loss of the base property qualifications.

(11) Nonuse, in whole or in part, of grazing privileges under a license or permit may be authorized by the District Manager, upon application by the licensee or permittee, after reference to the advisory board, for the following reasons: conservation and protec-

tion of the Federal range, annual fluctuations in livestock operations, or financial or other reasons beyond the control of the licensee or permittee.

(12) A revocation of a license or permit in whole or in part may result in a proportionate loss of the base property qualifications supporting such license or permit.

(13)(i) No readjudication of any license or permit, including free use license, will be made on the claim of any applicant or intervener with respect to the qualifications of the base property, or as to the livestock numbers or seasons of use of the Federal range allotment where such qualifications or such allotment has been recognized and license or permit has issued for a period of three consecutive years or more, immediately preceding such claim.

(ii) The Bureau of Land Management may make adjustments in licenses and permits at any time when necessary to comply with the Federal Range Code for Grazing Districts.

(14) Where Federal range is allotted for the exclusive grazing use of one or more users, the District Manager, if the proper use or orderly administration of the range makes it necessary:

(i) May require the licensee(s) or permittee(s), as a condition to the granting and continued effectiveness of grazing licenses or permits, to fence or to contribute an equitable share to the cost of fencing the allotted areas, and of maintenance of such fences;

(ii) May require any licensee or permittee who will benefit in some substantial measure from such fence construction, as a condition to the renewal of an existing license or permit, likewise to pay or to reimburse an equitable share of the cost of such fence construction and maintenance. The amount of such share may be established by agreement of the parties, or, upon their failure to agree, by determination of the District Manager.

(iii) May take necessary action to enforce the requirements under subdivisions (i) and (ii) of this subparagraph, in accordance with the provisions of sec. 161.9(d).

(f) *Reduction.* (1) If necessary to reach the grazing capacity of any area of the Federal range after licenses or permits have been issued, reductions of grazing privileges applicable to such area shall be made in the following order:

(i) Nonrenewable licenses.

(ii) Regular licenses or permits to the extent, if any, to which they are in excess of the base property qualifications or have been otherwise improperly issued.

(iii) Regular licenses or permits properly issued, on an equal percentage basis.

(2) Such reductions may be made either by reducing the number of livestock or the time on the Federal range involved, or by both methods, as determined by the District Manager after recommendation by the advisory board.

(3) When the District Manager, after recommendation by the advisory board, determines that the imposition of the full amount of certain reductions in grazing privileges from current licensed or permitted use necessary to reach the grazing capacity of a range area would impose a serious hardship on the range users, he is not required to impose the full amount of the reduction forthwith, but will then schedule a percentage of the required reduction during each of the three years immediately following the determination as the circumstances of each case may warrant, except when the total reduction is less than fifteen percent it may not be so scheduled but will be imposed forthwith in the full amount.

(4) The District Manager will notify each affected licensee or permittee by certified mail of his decision to make a reduction in grazing privileges to reach the grazing capacity of any Federal range area and of the manner in which the reduction is to be made. The District Manager's decision notice will allow thirty days from receipt thereof in which to file any desired appeal in accordance with Sec. 161.10 of this part. If no appeal is filed within the thirty-day period, the reduction will be made in accord-

ance with the District Manager's decision, and no further appeal will be allowed even though the reduction may be scheduled under subparagraph (3) of this paragraph to cover a period of time up to three years. If any timely appeal is filed after receipt of the District Manager's decision notice, the reduction for the entire Federal range area under consideration will be deferred pending the completion of the appeal and hearing procedure. Any reduction provided by the ultimate decision will be applied to its full extent immediately after the effective date of that decision. If, however, the final decision on appeal is rendered within the three-year reduction period established by the decision notice of the District Manager, the required adjustment may be apportioned over the remaining portion of that period. In the event that the orderly administration of the range or other public interest so requires, any decision may be placed in full force and effect in accordance with the provisions of Sec. 161.10(i)(2).

(5) When the District Manager determines that the potential grazing capacity, with improvements, of a Federal range area is significantly greater than the present grazing capacity, he may, after obtaining advice from the advisory board, issue a current license for active use not to exceed the animal unit months of forage presently available, and issue a non-use license for the difference between the use allowable by the limits of the present grazing capacity and the potential. This difference will be held in a suspense status as reflected in the non-use portion of the license, provided that the aggregate of active and non-use privileges shall not exceed the extent of the base property qualifications of the licensee or permittee. Thereafter, when the District Manager determines that a significant portion of the potential grazing capacity has been attained, he may increase the active authorized use under the license or permit to that extent.

(g) *Allotments; agreements; increases.* (1) Allotments of Federal range will be made to licensees or permittees when conditions warrant. Division of the range by agreement or former practice will be followed where practicable, provided such division is in substantial conformity with the qualifications for grazing privileges of the respective applicants and the agreement is reduced to writing and approved by the District Manager.

(2) Increases in grazing capacity, when conditions warrant, and after recommendation of the advisory board and approval of the District Manager, will be apportioned in a manner that will assist in the stabilization of livestock operations controlling qualified base property, with emphasis being given to the restoration of reductions that have been imposed to reach the grazing capacity of a particular allotment or range area, and to allocation of increased grazing capacity to operators or interests whose efforts were responsible for such increases.

(h) *Administration of lands additionally available; preference right for lands restored from withdrawal.* (1) Any land within the exterior boundaries of a grazing district made available for administration by the Bureau of Land Management, by a lease under the Pierce Act of June 23, 1938 (52 Stat. 1033; 43 U.S.C. 315M–1–315M–4), by the revocation of a withdrawal, or by the cancellation or relinquishment of a homestead entry or claim, or otherwise, after the grazing privileges in the area embracing the land have been adjudicated, will be administered in accordance with customary use so far as such administration may be practicable and consistent with good range management.

(2) Where public lands are restored from withdrawal and the District Manager determines that the lands are available for grazing use, the party using such lands or part thereof for grazing purposes under authority of the agency which had jurisdiction over the lands immediately prior to their restoration, shall have a superior preference to the

further grazing use of such lands. The preference right must be asserted and an application for license or permit, on Form 4–1283 obtainable from the District Manager must be filed with that officer not more than 90 days after the date of signing of the order of revocation of the withdrawal, or not more than 90 days after the end of the current lease year under which the land is being used, whichever is the later. The application must be accompanied by a copy of the prior lease, license, permit or other authority upon which the preference claim is based. The District Manager may issue to such applicant an annual license or a term permit as he shall determine, authorizing such grazing use subject to the applicable regulations in this part. (Sec. 1, act of May 28, 1954 (68 Stat. 151), as interpreted and applied to sec. 3, Taylor Grazing Act, 43 U.S.C., 1952 ed., sec. 315(h)).

(i) *Suspension of licenses and permits under Soldiers' and Sailors' Civil Relief Act of 1940.* Any licensee or permittee who enters military service, as defined in section 101 (1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1179; 50 U.S.C. App. 511 (1)), may elect at the beginning of or at any time during the period of such service to suspend his license or permit, in whole or in part, for such period and six months thereafter, subject to the following:

(1) The licensee or permittee shall file with the District Manager an application, in duplicate, setting forth the facts and circumstances upon which the application for suspension of the license or permit is based. If the applicant desires the suspension of a license or permit in more than one district, a separate application shall be filed with the District Manager for each district.

(2) Upon the approval of the application the suspension shall be effective for the period involved, unless sooner terminated upon further application to the District Manager by the licensee or permittee, and no operations under the license or permit to the extent suspended shall be conducted during such period.

(3) No grazing fees will be assessed under a license or permit to the extent and during the period it is suspended and, upon the approval of an application for suspension, any fees that have been paid for the period of suspension will be refunded and any fees that are or may become due for such period will be remitted.

(4) A special temporary license, to the extent of any grazing privileges suspended, may be issued to another applicant for not to exceed the period of such suspension, but upon the termination of the suspension, either by reason of the expiration of the six months' period following the conclusion of the first licensee's or permittee's military service or by reason of an application by the first licensee or permittee for an earlier termination, or otherwise, such temporary license shall terminate as of the beginning of the grazing period next following the termination of the suspension.

(5) No suspension granted hereunder shall entitle a licensee or permittee to any greater privileges subsequently than those to which he would have been entitled in the absence of a suspension.

(6) Any adverse action by the District Manager on an application for suspension of a license or permit under this paragraph may be appealed by the licensee or permittee to the Director, and from the Director to the Secretary of the Interior, in accordance with the rules of practice, Part 221 of this chapter.

(j) *Interest of Member of Congress prohibited.* No Member of or Delegate to Congress shall be admitted to any share or part of any license or permit issued under the act, or to derive any benefit to arise therefrom. (41 U.S.C. sec. 22; 18 U.S.C. secs. 431–433.)

Sec. 161.7 *Transfers of base property; base property qualifications; relinquishments.* (a) *Transfer of base property; effect.* (1) A transfer of a base property or part thereof, whether by agreement, operation of law, or testamentary disposition, will entitle the transferee, if qualified under sec. 161.3(a), to so much of the grazing privileges as are based thereon. Except as otherwise herein provided, the existing license or permit and the grazing privileges thereunder shall automatically and without further notice be terminated or decreased by such transfer to the extent of the grazing privileges attaching to the transferred base property; except that further grazing under the license or permit may be temporarily extended pursuant to request and notification filed in accordance with sec. 161.6(e)(8)(i); except, also, where the transfer arises as a result of testamentary disposition the existing license or permit may continue in effect until the end of the current grazing season. Thereafter applications for renewal of a license or permit shall be filed by the heirs, devisees, executor, administrator, or personal representative, as the case may be.

(2) A transferee shall, within 90 days from the date of transfer, file with the District Manager documentary evidence of the transfer and an application on Form 4–1283 for a license or permit, active or nonuse, for the grazing privileges based thereon. Failure to comply with these requirements may result in the loss of the qualifications of the base property transferred. Where, however, a transfer, or a different vesting in any manner, of a leasehold interest in land or water may result in interference with the stability of livestock operations or with proper range management, upon a finding to that effect by the District Manager, after reference to the advisory board, such land or water will lose its base property qualifications and grazing privileges based thereon will be denied.

(b) *Transfer of base property qualifications; limitations; consent of owner or encumbrancer; effect.* (1) A licensee or permittee may request the transfer of the recognized qualifications of base property then owned or controlled by him to other property owned or controlled by him, or to property owned or controlled by another person or persons qualified in accordance with sec. 161.3(a). An application for approval of a transfer shall be filed with the District Manager on Form 4–1284 as to land base, or on Form 4–1285 as to water base.

(2) Transfer of base property qualifications may be made under the following conditions:

(i) When an applicant owns or controls base land or lands having a forage production in excess of that required to support the licensed or permitted livestock, the qualifications may be concentrated on that part of the property having the forage production required by and which will continue to be used for the support of such livestock.

(ii) When such qualifications are to be transferred from land owned or controlled by the applicant, to land owned or controlled by others, the transfer will be recognized only to the extent such qualifications do not exceed the forage production of the new base property.

(iii) When an applicant owns or controls base water, the qualifications may be transferred to another adequate water source which will service the same range area.

(3) No transfer will be allowed under this paragraph if it interferes with the stability of livestock operations or proper range management, or adversely affects the local economy. No transfer will be allowed without the written consent of the owner or owners and any encumbrancer of the base property from which the transfer is to be made, except that in an application for transfer of class 1 qualifications where the applicant for such transfer is a lessee of the base property without whose livestock operations the dependency by use or priority thereof would not have been established, such consent will not be required. Upon approval of the application by the District Manager after reference to the

advisory board, the transfer shall be effective as of the date of filing of the application, and the base property from which the transfer is made will thereupon lose its qualifications to the extent indicated in the transfer.

(c) *Relinquishment of base property qualifications; limitation; effect.* Upon request of a licensee or permittee, the District Manager may accept a relinquishment or waiver of grazing privileges on the Federal range and of base property qualifications of the base property owned or controlled by the applicant. Upon acceptance of such relinquishment, the base property will lose its qualifications to the extent specified, provided that no such relinquishment will be accepted without the written consent of the owner or owners, if other than the licensee or permittee, and any encumbrancer of the base property, except that if the licensee or permittee is a lessee of the base property without whose livestock operations the dependency by use or priority thereof would not have been established, such owner's consent will not be required.

Sec. 161.8 *Fees; time of payment; refunds.*

(a) *Free-use licenses.* No fee will be charged for the issuance of a free-use license.

(b) *Licenses and permits.* Each regular licensee or permittee, and holder of a nonrenewable license will be charged fees, consisting of a grazing fee for the use of the range and a range improvement fee, for the animal unit months authorized by the license or permit, at a rate per animal unit month. Such rates, including the percentage of the total fee to be credited to range improvement, will be published as a notice in the FEDERAL REGISTER. All billing shall be issued in accordance with the rates prescribed in the notice. All livestock six months of age or over allowed on the Federal range will be considered at any point of time during the grazing period as a part of the total number for which a license or permit has been issued. No fees will be charged for livestock under six months of age. Range improvement fees, upon the recommendation of the advisory board and approval of the Director, may vary in accordance with the character or requirements of the various districts or portions thereof. Grazing fees may differ in any district or unit thereof in which the grazing capacity of the Federal range is increased by reason of the addition of land not owned by the United States, or by reason of a cooperative agreement or memorandum of understanding between the Bureau of Land Management, and any State or Federal agency, or any person, association, or corporation. A minimum annual charge of $5 will be made on all regular licenses or permits, and nonrenewable licenses.

Note: The fees for the year beginning January 1, 1958, will be established at the rate equivalent to the average of prices of beef and lamb to the nearest whole cent, paid to growers during the calendar year 1957 in the markets of the eleven Western States, as determined by the Director of the Bureau of Land Management on the basis of marketing data for the preceding year furnished by the Agricultural Marketing Service, Department of Agriculture. In succeeding years a change in the fees will be made only when the average of such prices paid to the growers in the preceding year, rounded to the nearest whole cent, shall be two cents or more above or two cents or more below the fees then in effect. The fee rate, including the percentage of the total fee to be credited to range improvement, for 1958, and subsequent changes in such rate, will be published as a notice in the FEDERAL REGISTER. All regular billings shall be issued in accordance with the rate prescribed in the notice.

(c) *Crossing permits.* Upon application filed with the District Manager by any person showing the necessity for crossing the Federal range with livestock for proper and lawful purposes, a crossing permit may be issued to him at a charge, payable in advance, of one cent per head per day for cattle, two cents per head per day for horses, and one-fifth cent per head per day for sheep and goats. A minimum charge of $5 will be made for each crossing permit, except that no fee will be charged where the trail to be used is so limited and defined that no substantial amount of forage will be consumed in transit.

(d) *Payment of fees; reduction or increase in numbers; modification of periods of use.* No license or permit shall be issued or renewed until payment of all fees due the United States under the Federal Range Code for Grazing Districts has been made. Fees for licenses and permits are due the United States upon issuance of the fee notice and are payable at least 15 days in advance of the first grazing period and for the full amount indicated on the fee notice; no license or permit shall be effective to authorize grazing use thereunder until such advance payment has been made.[2] A permit may be canceled or reduced pursuant to sec. 161.9(d) for failure to pay the fee in accordance with the fee notice. Any licensee or permittee who desires to make temporary use of the grazing privileges during any authorized grazing period or periods in a manner other than that authorized in his existing license or permit must file with the District Manager a written request for such change in use at least 30 days prior to the beginning of any such grazing period. If the District Manager approves the request he will issue an adjusted fee notice accordingly.

(e) *Refunds.* No refund of fees properly paid will be made because of an unauthorized failure to use the grazing privileges, either in whole or in part, represented by a license or permit, except that:

(1) During periods of range depletion due to severe drought or other natural causes or in case of a general epidemic of disease during the life of a license or permit, the Director may in his discretion credit, remit, refund, reduce in whole or in part, or postpone the payment of fees for such depletion period so long as the emergency exists.

(2) When fees have been paid which are not required by law, or which are in excess of lawful requirements, an application for refund thereof may be filed with the District Manager under the provisions of the act of March 26, 1908, as amended (35 Stat. 48; 43 U.S.C. 95, et seq.), or such excess fees may be credited on subsequent fee notices.

Sec. 161.9 *Procedure in applications; protests*---(a) *Filing and consideration of applications; interdistrict agreements; recommendations; service of notice.* (1) Each year a date will be set by the District Manager prior to which all applications[3] for grazing licenses or permits in the district must be filed in his office; applications filed on or after such date may be rejected for that year unless satisfactory justification for the belated filing is shown.

(2) Applications for grazing licenses or permits will be considered first by the advisory board of the district in which the Federal range is located, except that applications of district advisers will be considered first by the District Manager, without reference to the advisory board.

(3) Where a grazing area or unit is located in one district, but is administered by the District Manager of an adjacent district pursuant to a formal interdistrict agreement, applications for grazing licenses or permits on such area or unit shall be filed with the District Manager of the adjacent district. The advisory board of the district in which the land is actually located may designate one or more of its members, on its behalf, in cooperation with the advisory board of the adjacent district, to make appropriate recommendations to the District Manager of the adjacent district with respect to such applications.

(4) The advisory board will make its recommendation to the District Manager and, if such recommendation is to any extend adverse, it shall set forth the reasons therefor. If such recommendation is favorable and the District Manager approves, he will notify the applicant by ordinary mail, which notice may be the fee billing. If the advisory board recommendation is favorable but the District Manager disagrees, notice will be served on the applicant in person or by certified mail sent to his address of record, setting forth the recommendation of the advisory board and the Manager's disapproval, together with the reason or reasons for a prospective adverse decision, including a reference to the pertinent sections or provisions of the Federal Range Code for Grazing Districts in which the application is deficient, and naming a date, not less than ten days thereafter, on or before which oral or written protest may be presented to the District Manager. If the recommendation of the board is to any extent

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[2] Any grazing on the Federal range within grazing districts in the absence of effective license or permit is unlawful and prohibited; such unauthorized grazing shall be deemed in trespass and may be proceeded against as provided in sec. 161.12, or by other action under the law.

[3] 18 U. S. C. 1001 makes it a crime for any person knowingly and wilfully to submit or cause to be submitted to any agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

adverse, notice will be served on the applicant in person or by certified mail sent to his address of record, setting out the reason or reasons given by the advisory board for the adverse recommendation, including a reference to the pertinent sections or provisions of the Federal Range Code for Grazing Districts in which the application is deficient, and naming a place and date, not less than ten days thereafter, when protest against the recommendation will be heard. The District Manager may also serve notice on any other applicant or applicants who may be directly affected by the adoption of the advisory board recommendation or the prospective decision of the Manager which will allow an appropriate protest. In any case where consideration of an application involves only issues previously adjudicated involving the same applicant or his predecessors in interest, the same base property and the same area of use, the advisory board may recommend that a protest meeting not be held, whereupon the District Manager may accept the recommendation of the board as its final consideration.

(b) *Protests; reconsideration by advisory boards; service of notice.* At the time and place fixed for the protest meeting, any licensee, permittee, or applicant may appear, in person or by attorney or other representative, or may file a written protest with the advisory board, which thereupon will reconsider its previous recommendation in the light of the protest and will make a final recommendation to the District Manager. If such recommendation is favorable to the protestant, and the District Manager approves, he will notify the protestant thereof by ordinary mail, which notice may be the fee billing. If the recommendation is to any extent adverse, and the District Manager approves, a notice giving the reason or reasons therefor will be served on the protestant in person or by certified mail, including a reference to the pertinent sections or provisions of the Federal Range Code for Grazing Districts that serve as controlling factors. Such notice will constitute the District Manager's final decision for purposes of appeal.

(c) *Allowance or rejection of application; modification; service of notice.* The District Manager, in the light of all facts and circumstances and after reference to the advisory board, may issue or refuse to issue a grazing license or permit. When the District Manager takes an adverse action on any application, a notice including a recital of the specific reasons for the action taken will be served on the applicant in person or by certified mail. The notice will advise the applicant of his privilege to appeal to an examiner.

(d) *Cancellation or reduction of licenses or permits; show cause; appeal to examiner.* Licenses or permits are subject to cancellation or reduction to the extent that they have been improperly issued, or to the extent that their continued effectiveness is adversely affected pursuant to any of the provisions of sections 161.3 (b), 161.6 (e), 161.8 (d), 161.14 (d) or 161.15 (f). Except as otherwise specifically provided, in any such case or in any case in which it shall appear that a license or permit confers grazing privileges in excess of those properly allowable under this part, the District Manager will notify the licensee or permittee that the license or permit is thereby held for cancellation or reduction either in whole or in part, as the case may be, and that the licensee or permittee will be allowed fifteen days from receipt of notice within which to show cause why such action should not be made final. Such notice will set forth fully the reasons for the proposed action, specifically referring to the pertinent provisions of this part, and will be served on the licensee or permittee by certified mail or in person. In case of failure of the licensee or permittee to show cause within the time allowed, the license or permit will be canceled or reduced to the extent indicated in the notice. The District Manager will consider any cause shown and, if satisfied of its sufficiency, will close the case; if not satisfied as to its sufficiency, or if no cause is shown, he will notify the licensee or permittee in person or by certified mail that the cancellation or reduction will become final unless an appeal to the examiner is filed in accordance with sec. 161.10 (a).

Sec. 161.10 *Appeals and hearings*--(a) *Appeal to examiner; motion to dismiss.* (1) Any applicant whose interest is adversely affected by a final decision of the District Manager may appeal to an examiner by filing his appeal in the office of the District Manager within 30 days after receipt of the decision. The appeal shall state the reasons, clearly and concisely, why the appellant thinks the decision of the District Manager is in error. All grounds of error not stated will be considered as waived, and no such waived grounds of error may be presented at the hearing unless ordered or permitted by the examiner.

(2) Any applicant for a grazing license or permit or any other person who, after proper notification, fails to protest or appeal a decision of the District Manager within the period prescribed in the decision, shall be barred thereafter from challenging the matters adjudicated in such final decision.

(3) When separate appeals are filed and the issue or issues involved are common to two or more appeals, they may be consolidated for purposes of hearing and decision.

(4) The District Manager will promptly forward the appeal to the State Director. Within thirty days after his receipt of the appeal the State Director may file on behalf of the District Manager a written motion, serving a copy thereof upon the appellant, requesting that the appeal be dismissed for the reason that it is frivolous, the appeal was filed late, the errors are not clearly and concisely stated, the issues are immaterial, the issue or issues were included in a prior final decision from which no timely appeal was made, or all issues involved therein have been previously adjudicated in an appeal involving the same privileges, the same parties or their predecessors in interest. The appellant may file a written answer within twenty days after service of the motion upon him. The appeal, motion, the proofs of service, and the answers will be transmitted to the examiner, who shall rule on the motion, and, if the motion is sustained, dismiss the appeal by written order.

(b) *Time and place of hearing; notice; intervenors.* At least thirty days before the date set the District Manager will notify the appellant of the time and place of the hearing within or near the district. Any other person who in the opinion of the District Manager may be directly affected by the decision on appeal will also be notified of the hearing; such person may himself appear at the hearing, or by attorney, and upon a proper showing of interest, may be recognized by the examiner as an intervener in the appeal.

(c) *Authority of examiner; subpoenas; depositions; continuances; witness fees.* (1) The examiner is vested with the duty and general authority to conduct the hearing in an orderly, impartial and judicial manner, including authority to subpoena witnesses, recognize intervenors, administer oaths and affirmations, call and question witnesses, regulate the course and order of the hearing, rule upon offers of proof and the relevancy of evidence, and to make findings of fact, conclusions of law, and a decision. The examiner shall have authority to take or to cause depositions to be taken. Subpoenas, depositions, the attendance of witnesses, and witness and deposition fees shall be governed by Part 221 of this chapter, to the extent such regulations are applicable.

(2) The examiner also may grant or order continuances, and set the times and places of further hearings. Continuances shall be granted in accordance with the rules of practice (Part 221 of this chapter), and when the ends of justice will be served thereby. Continuances will not be granted unless they are clearly justified and timely request has been made. Where it appears prior to the date of hearing that a continuance will be desired, the party desiring the continuance

should promptly file a request for continuance with the examiner, along with proof of service of the request on the District Manager and on other parties. The District Manager and other parties shall have five days from receipt of the request to file objection to the continuance. The examiner will then rule on the request, and, if granted, set a new date for the hearing. The District Manager will notify all interested persons of the new date.

(d) *Conduct of hearing before examiner.*

(1) The appellant, the State Director or his representative, and recognized intervenors will stipulate so far as possible all material facts and the issue or issues involved. The examiner will state any other issues on which he may wish to have evidence presented. Issues which appear to the examiner to be unnecessary to a proper disposition of the case will be excluded; but the party asserting such issue may state briefly for the record the substance of the proof which otherwise would have been offered in support of the issue. Issues not covered by the appellant's specifications of error may not be admitted except with the consent of the State Director or his representative, unless the examiner rules that such issue is essential to the controversy and should be admitted. The parties will then be given an opportunity to submit offers of settlement and proposals of adjustment for the consideration of the examiner and of the other parties.

(2) Unless the examiner orders otherwise, the State Director or his representative will then make the opening statement, setting forth the facts leading to the appeal (or issuance of the show cause order where that is involved). Upon the conclusion of the opening statement, the appellant shall present his case, consistent with his specifications of error. Following the appellant's presentation, or upon his failure to make such presentation, the examiner, upon his own motion or upon motion of any of the parties, may order summary dismissal of the appeal with prejudice because of the inadequacy or insufficiency of the appellant's case, to be followed by a written order setting forth the reasons for the dismissal and taking such other action under this part as may be proper and warranted. An appeal may be had from such order as well as from any other final determination made by the examiner.

(3) In the absence or upon denial of such motion the State Director or his representative and recognized intervenors may present evidence if such a presentation appears to the examiner to be necessary for a proper disposition of the matters in controversy, adhering as closely as possible to the issues raised by the appellant. All oral testimony shall be under oath or affirmation, and witnesses will be subject to cross-examination by any party to the proceeding. The examiner will himself question any witness whenever it appears necessary. Documentary evidence will be received by the examiner and made a part of the record, if pertinent to any issue, or may be entered by stipulation. No exception need be stated or noted and every ruling of the examiner will be subject to review on appeal. The party affected by an adverse ruling sustaining an objection to the admission of evidence, may insert in the record, as a tender of proof, a brief written statement of the substance of the excluded evidence; and the opposing party may then make an offer of proof in rebuttal. The examiner will summarily stop examination and exclude testimony on any issue which he determines has been adjudicated previously in an appeal involving the same privileges and the same parties or their predecessors in interest, or which is obviously irrelevant and immaterial to the issues in the case. At the conclusion of the testimony the parties at the hearing shall be given a reasonable opportunity, considering the number and complexity of the issues and the amount of testimony, to submit to the examiner proposed findings of fact and conclusions of law, and reasons in support thereof, or to stipulate to a waiver of such findings and conclusions.

(e) *Findings of fact and decision by examiner; notice; submission to Director* *for decision.* (1) As promptly as possible after the time allowed for presenting proposed findings and conclusions, the examiner will make findings of fact and conclusions of law unless waiver has been stipulated, and will render a decision upon all material issues of fact and law presented on the record. In doing so he may adopt the findings of fact and conclusions of law proposed by one or more of the parties if they are correct. He must rule upon each such proposed finding and conclusion. The reasons for the findings, conclusions and decisions made shall be stated, and along with the findings, conclusions and decision, shall become a part of the record in any further appeal. A copy of the decision shall be sent by certified mail to the appellant and all intervenors, or their attorneys of record.

(2) The Director may require, in any designated case, that the examiner make only a recommended decision and that such decision and the record be submitted to the Director for consideration. In such instances the Director shall make the initial decision which shall constitute the decision of the Bureau, without prejudice to the right of any party affected to be furnished with a copy of the transcript of testimony, as provided in the next paragraph, and to appeal to the Secretary in the manner prescribed by the rules of practice (Part 221 of this chapter).

(f) *Notice of appeal to the Director; furnishing copies of the transcript.* Within ten days after the receipt of the decision of the examiner any party, including State Director or his representative, desiring to appeal to the Director shall file a written notice of his intention to appeal and may request a copy of the transcript of testimony. Copies of the transcript will be furnished to the State Director without charge, and to other appellants and to the intervenors, at a charge of ten cents per folio, except that upon a sufficient showing to the examiner, supported by an affidavit, that an appellant or intervenor is financially unable to pay such fee, a copy will be furnished him without charge. The examiner shall include in the record, proof of delivery of the transcript showing the date of such delivery. Notice of appeal and request for a copy of the transcript shall be filed through the office of the Hearing Examiner.

(g) *Appeals to the Director.* An appeal from any decision of the examiner shall be filed in the Office of the Director, Bureau of Land Management, Department of the Interior, Washington 25, D. C., together with any brief in support thereof, within thirty days after date of receipt of the transcript of testimony, or, if the transcript is not requested, within thirty days after receipt of the examiner's decision. Within the same period a copy of the appeal and of any brief must be served on each party named in the examiner's decision, and upon the State Director, either personally or by certified mail. Any party, including the State Director, opposing the appeal will be allowed twenty days from date of receipt of the copy of the appeal and brief within which to file in the Office of the Director a reply brief, a copy of which must be served on the appellant(s) in the same period. The appeal in other respects shall be made in accordance with the rules of practice (Part 221 of this chapter).

(h) *Appeals to the Secretary of the Interior.* An appeal from the decision of the Director may be made to the Secretary of the Interior in accordance with the rules of practice (Part 221 of this chapter).

(i) *Effect of decision suspended during appeal.* (1) An appeal shall suspend the effect of the decision from which it is taken pending final action on the appeal. Where the appeal is concerned with the grazing privileges to be granted under the current application, an appellant who was granted grazing privileges in the preceding year may continue to use such privileges pending final action on the appeal, unless the decision appealed from is made immediately effective, as herein next provided.

(2) When the orderly administration of the range or other public interest so requires,

(i) the District Manager may provide initially in his decision that it shall be in full force and effect pending decision on an appeal therefrom; (ii) the examiner or the Director may provide in the decision on an appeal before such officer, that it shall be in full force and effect pending decision on and further appeal; (iii) the Director or the Secretary may provide by interim order that any decision from which an appeal is taken shall be in full force and effect pending final decision on the appeal. Any action taken by the District Manager pursuant to a decision shall be subject to modification or revocation by the Examiner, Director, or the Secretary upon an appeal from the decision. In order to insure the exhaustion of administrative remedies before resort to court action, no decision which at the time of its rendition is subject to appeal to a superior authority in the Department shall be considered final so as to be agency action subject to judicial review under sec. 10(c) of the Administrative Procedure Act of June 11, 1946 (60 Stat. 237), unless it has been made effective pending a decision on appeal in the manner provided in this paragraph.

(j) *Record as basis of decision; definition of record.* No decision shall be rendered except on consideration of the whole record or such portions thereof as may be cited by any party or by the State Director and as supported by and in accordance with the reliable, probative and substantial evidence. The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding shall constitute the exclusive record for decision.

(k) *Notice and proof of service.* Any notice of other document required to be served under this section shall be served in person or by certified mail sent to the last address of record. In all cases where a party is represented by an attorney, such attorney will be recognized as fully controlling the same on behalf of his client, and service of any document upon such attorney relating to the proceedings will be deemed to be service upon the party he represents. Proof of such service shall be filed in the same office where the notice or document was filed within fifteen days after such service, unless filed with the notice or document. Proof of service shall consist of the affidavit of the person making the personal service, signed acknowledgment of the person served, or the certified mail receipt.

(l) *Effect of substantial compliance.* No adjudication of grazing privileges will be set aside on appeal, if it appears that it is reasonable and that it represents a substantial compliance with the provisions of this part.

Sec. 161.11 *General rules of the range*--(a) *Acts prohibited.* The following acts are prohibited on the Federal range:

(1) Grazing livestock upon, allowing livestock to drift and graze on, or driving livestock across the Federal range, including stock driveways, without an appropriate license or permit, regular or free-use, or a crossing permit.

(2) Grazing livestock upon or driving livestock across the Federal range, including stock driveway, in violation of the terms of a license or a permit, either by exceeding the number of livestock permitted, or by allowing livestock to be on the Federal range in an area or at a time different from that designated, or in any other manner.

(3) Constructing or maintaining any kind of improvements, structures, fences, or enclosures on the Federal range, including stock driveways, without authority of law or a permit.

(4) Destroying, molesting, disturbing, or injuring property used or acquired for use by the United States in the administration of Federal range, including stock driveways, or improvements constructed or maintained under section 4 of the act.

(5) Cutting, burning, or removing vegetative cover, brush, woodland growth, or timber for any purpose, except as authorized by law. Permits to carry on controlled burning of

vegetative cover or brush may be issued by the District Manager in proper cases, subject to such conditions as he may impose, and to all State laws and regulations concerning such burning.

(6) Molesting or driving from the Federal range without authority livestock lawfully grazing thereon under license or permit.

(7) Interference with licensed hunters or fishermen to enter, and hunt and fish on the Federal range covered by such license or permit; or with the entrance of miners, prospectors and mineral lessees of the United States to prospect, locate, develop, mine or patent the mineral resources on such Federal range; or with other persons entitled to enter such range for lawful purposes.

(b) *Rules of fair range practice.* All licensees and permittees shall comply with the following rules of fair range practice:

(1) The statutory provisions of the State in which the Federal range or stock driveway to be used is located relating to the branding of livestock and sanitary requirements shall be followed.

(2) A crossing permittee shall follow the route prescribed in the crossing permit at an average rate of not less than five miles per day for sheep or goats and ten miles per day for cattle or horses, but an increased or decreased rate of travel may be prescribed in the discretion of the District Manager.

(3) All licensees and permittees shall provide adequate salt on the range for their licensed or permitted livestock, and shall bed sheep and goats according to instructions issued by the District Manager. Upon request by the majority of the users of any community allotment of Federal range, the District Manager may prescribe the time for, breed, grade, and number of bulls to be turned into such allotment; in the absence of such express requirements the provisions of State law on the subject shall be applicable.

(4) When so requested by the State Director or District Manager, the licensee or permittee shall join with the Bureau of Land Management in preparing a fire plan which shall set forth in detail the program for prevention, control, and extinguishment of fires, including the responsibility of the licensee or permittee for action on his range allotment and on adjacent Federal range.

Sec. 161.12 *Procedure for enforcement of rules and regulations.* A grazing license or permit may be suspended, reduced, or revoked, or renewal thereof denied for a clearly established violation of the terms or conditions of the license or permit, or for a violation of the act or of any of the provisions of this part, or of any approved special rule.

(a) *Violations not clearly wilful.* Whenever it appears that a violation exists, not clearly wilful, the District Manager shall serve written notice upon the alleged violator and upon any interested lien holder who has registered notice of his lien with the District Manager. The notice shall set forth the act or omission constituting such violation, referring to the specific terms or provisions of the license or permit, of the act or of this part or of any approved special rule alleged to have been violated; and will allow the licensee or permittee a reasonable specified time from receipt of notice to demonstrate that there has been no violation or that he has since achieved compliance with such terms and conditions. If such showing is satisfactory to the District Manager he will close the case; if satisfactory showing is not made within the time allowed, the violations alleged in the notice will be deemed to have been wilful and the District Manager will notify the State Director thereof for further action under paragraph (e) of this section.

(b) *Violations clearly wilful; special circumstances.* Whenever it appears to the District Manager that a violation is clearly wilful, grossly negligent, or repeated, or when the public health, safety, or interest requires, or when disciplinary action is advisable, the District Manager will refer the matter directly to the State Director for further action under paragraph (c) or (e) of this section, whichever is appropriate.

(c) *Unlawful grazing on the Federal range; determination of damages; removal of livestock; impoundment.* (1) Whenever the charge consists of unlawfully grazing livestock on the Federal range, the notice served on the alleged violator and any interested lien holder who has filed notice of his lien with the District Manager will order the alleged violator to remove the livestock or to cause them to be removed immediately or within such reasonable time as may be specified. If the alleged violator fails to comply with the notice the District Manager may proceed to exercise the proprietary right of the United States in the Federal range, under local impoundment law and procedure, if practicable; otherwise he may refer the matter through the usual channels for appropriate legal action by the United States against the violator.

(2) Where the owner of the trespassing livestock, or his representative, is known, the District Manager shall make a determination of the damage to the Federal range and other property of the United States and shall make a demand for payment upon the alleged violator, setting forth the foregoing values including the value of the forage consumed. Where the trespass grazing is not deemed to be clearly wilful the forage value shall be computed at the rate of $2 per animal unit month, or at the commercial rate if such rate is the higher; if the District Manager deems the trespass grazing to be clearly wilful, grossly negligent, or repeated he shall compute the forage value at $4 per animal unit month, or at twice the commercial rate if such amount is the higher.

(3) In any case where neither the owner of the trespassing livestock, or his representative, is known, or where conservation of the Federal range and of the forage thereon requires it, the District Manager, when so authorized by written order of the State Director, may take steps to remove the trespassing livestock by such methods and by such means not inconsistent with legislation which prohibits the use of airborne or motor-driven vehicles in the gathering of horses or burros, as may be necessary, and to dispose of them by sale or otherwise within not less than five (5) days after public notice of his intention to make such disposition, subject to the right of any owner or registered lienholder of such trespassing livestock to redeem the livestock within such nondisposal period upon payment of:

(i) The damage to the Federal range and other property of the United States.

(ii) The cost of such impoundment and removal.

(iii) The value of any forage consumed as determined in accordance with subparagraph (2) of this paragraph.

(4) If the amounts found to be due the United States in accordance with subparagraph (3), subdivisions (i), (ii), and (iii) of this paragraph are contested by the owner of the livestock, his representative, or lienholder, the trespassing livestock may be redeemed by the posting of a cash or corporate surety bond in lieu of immediate payment. Such bond will be adequate to insure full satisfaction of the claims made. A hearing will then be scheduled before an examiner of the Bureau of Land Management. The hearing will be conducted so far as practicable in the same manner as other hearings before an examiner. The evidence will be confined to the determination of the amount of damages, value of the forage consumed, and any other amounts considered to be due the United States as a result of said trespass. The examiner will render a written decision assessing the amounts due.

(5) Where conservation of the Federal range and the forage thereon requires it, the State Director may temporarily close a grazing district or any portion thereof, to grazing by any class of livestock to be specified in such order. Notice of the order shall be published in a local newspaper and shall be posted at the County Courthouse of the County in which the closed area lies. The

order shall require all owners of livestock affected thereby to remove such livestock from the area within not less than five days from date of publication of the notice. Thereafter the District Manager shall proceed to impound, remove, and dispose of, in the most humane manner in accordance with the provisions of this paragraph any such livestock trespassing or grazing in violation of the closing order.

(d) *Amicable settlement of civil cases involving unauthorized use of the Federal range or damage to Federal property.* Offers of settlement for the value of the forage consumed in trespass as determined in accordance with paragraph (c) (2) of this section and for damage to Federal range or to other property of the United States resulting from an alleged violation of any provisions of the act or of the Federal Range Code for Grazing Districts in the amount of $2,000 or less may be accepted by the District Manager. Offers of settlement in excess of $2,000 will be transmitted to the State Director for appropriate action. An offer of settlement will not constitute satisfaction of civil liability for the consumed forage and damage involved until finally accepted by the District Manager or the State Director. Satisfaction of civil liability does not relieve the alleged violator of any criminal liability under Federal law. No license or permit will be issued or renewed until payment of any amount found to be due the United States under this section has been offered.

(e) *Disciplinary action for violations; show cause.* (1) Whenever it appears to the State Director that disciplinary action is advisable because of a wilful, grossly negligent, or repeated violation, he shall cause a written notice to be served upon the licensee or permittee. The notice shall set forth the act or acts complained of, specifically referring to the terms, conditions, or provisions of the license or permit and the section or sections of the Federal Range Code for Grazing Districts, or of the Act alleged to have been violated, and an estimate of the amount of damages resulting therefrom, including the value of the forage consumed, as determined in accordance with paragraph (c) (2) of this section. The notice will cite the licensee or permittee to appear before an examiner of the Bureau of Land Management at a designated time and place to show cause why his license, permit, or base property qualifications should not be reduced or revoked or renewal thereof denied and satisfaction of damages made.

(2) The hearing upon the order to show cause will be conducted so far as practicable in the same manner as other hearings before an examiner. The evidence shall be confined to the commission of the acts charged and the amount of damages, including the value of any forage consumed, due the United States. If the alleged violation is established to the satisfaction of the examiner, or upon the failure, without proper excuse satisfactory to the examiner, of the person named in the notice or his representative to appear at the hearing, the examiner will render a written decision assessing the amount of damages, including the value of any forage consumed, as determined in accordance with paragraph (c) (2) of this section, and directing the District Manager to suspend, reduce, or revoke the license, permit, or base property qualifications or to deny renewal, if the facts so warrant.

(f) *Bonds for violations.* Whenever an applicant, licensee, or permittee commits a wilful or wanton violation of any provision of this part or has repeatedly committed violations thereof, the State Director may require him to furnish a cash or corporate surety bond on an approved form to cover all probable damages that may result from his violations for a period up to ten years. Upon the violator's failure to furnish a bond when so required, the District Manager may refuse to issue or renew a license or permit, or the State Director may take action under paragraph (e) of this section, to revoke such license or permit.

(g) *Penal provision.* Under section 2 of the act any wilful violation of the provisions of the act or of this part or of approved special rules, after actual notice of the existence of the provisions of such act or of such rules and regulations, is punishable by a fine of not more than $500.

(h) *Appeals.* Appeal from the decision of the examiner to the Director and from the Director to the Secretary on any matter under this section shall be made in accordance with the applicable provisions of Sec. 161.10 and the rules of practice (Part 221 of this chapter).

Sec. 161.13 *Grazing District Advisory Boards*—(a) *Authorization for establishment; number of members; qualifications.* The State Director shall fix the number of members to be elected for appointment to the advisory board in each district, such number to be not less than five nor more than twelve, exclusive of a wildlife representative who will not be elective but shall be appointed directly by the State Director. The State Director may fix the number of district advisers to be elected as representatives of each class of stockmen, according to the kind of livestock owned, or may fix the number to be elected from each voting precinct, or both, provided that the free-use licensees in each district shall be entitled to one representative who shall be a free-use licensee. All district advisers, except the wildlife representative, shall be electors qualified to vote in the particular election. If a district is divided into precincts an adviser representing a precinct shall qualify in the precinct in the same manner as in the District.

(b) *Election; time and place; the general procedures.* All district advisers, except wildlife representatives, shall be elected in the manner provided in this section, and in the General Procedures for Grazing District Advisory Board Elections as approved by the Director, Bureau of Land Management and published in the FEDERAL REGISTER. An election of district advisers for each grazing district will be held within ninety days after the publication in the FEDERAL REGISTER of the order establishing the grazing district. Persons elected as advisers at the first election of the new district may hold office for a three-year term, or the District Manager may divide the group, by lot, as evenly as may be, into three classes to serve for one year, two years, or three years respectively, and until their successors are elected and have qualified. Thereafter in such new district and in existing district, the District Manager, after recommendation by the advisory board, shall determine whether elections shall be held annually or every three years and whether by actual polling or by mail, in accordance with the options in the General Procedures for Grazing District Advisory Board Elections.

(c) *Appointment; term of office; removal; vacancies.* Upon receipt of the judges' certificate of returns after conclusion of the election procedure the District Manager shall notify the State Director of the results thereof. A person elected as district adviser shall assume office only after he has been appointed by the State Director and has taken the oath of office. Such person shall serve for the term for which he has been elected and until his successor is elected and has qualified. The State Director may remove any district adviser from office because of failure to discharge his duties, loss of any of his qualifications to hold the office, or in the public interest. Upon a vacancy occurring in the office of a district adviser other than a wildlife representative by reason of resignation, removal, disqualification, or otherwise, the board shall recommend the name of a person to fill the vacancy and such recommendation, together with that of the District Manager, shall be transmitted to the State Director for consideration. A person appointed to fill a vacancy shall hold office until the next regular election. The wildlife representative shall hold office for a term of three years and until a successor is appointed by the State Director.

(d) *Meetings; organization.* District advisory boards shall meet at any time and place within or near the district designated by the State Director or his authorized representative. At the first meeting of the board after an election, it shall organize by electing one of its members as chairman and such other officers from its membership as it may deem necessary. Meetings of a district advisory board shall be open to the public except that, with the approval of the Bureau representative present, it may meet in executive session to consider applications for the granting of licenses or permits or any other business.

(e) *Functions and duties of district advisers; limitations.* District advisers shall advise or make recommendations on the following matters:

(1) The qualifications, classification, and requirements of base property.

(2) The transfer and relinquishment of base property qualifications.

(3) The grazing capacity of the Federal range in the district.

(4) Applications for all types of grazing licenses or permits, including nonuse, or extension of use, except applications of district advisers.

(5) Cancellation of grazing licenses or permits when related to: failure to use base property, loss of all or part of lands used in year-round operation, range depletion, failure to offer base property or to validate a license or permit, or failure to use grazing privileges.

(6) Agreements as to the extent of individual grazing privileges, when such agreements have been reduced to writing and found to be equitable and in substantial compliance with the provisions of this part.

(7) Variance in range improvement fees in accordance with the character and requirements of the district or portions thereof.

(8) Requirements for unit or allotment boundary fences and apportionment of costs between the benefiting licensees or permittees.

(9) Proper rules of fair range practice.

(10) Allotments of range by classes of livestock or for community or individual use.

(11) Seasonal use of the Federal range or any part thereof.

(12) Cooperative agreements or application for the construction or maintenance of improvements on the Federal range under section 4 of the act and assignments thereof.

(13) Work plans under the range improvement, weed control or soil and moisture conservation programs.

(14) Any recommendations made by local associations of stockmen in the district.

(15) Reservations of grazing capacity of Federal range for wild game animals, including any agreements in connection therewith proposed for execution with State or Federal wildlife agencies.

(16) Special rules for the district, within the meaning of Sec. 161.16.

(17) Any other matter which they may desire to bring to the attention of the Director, or on which their advice may be requested.

(f) *State Advisory Boards.* The livestock members of each grazing district advisory board shall select from their number at the first meeting of the board after each election, two members and two alternates to serve on a State advisory board for the State in which the district is located; where the district advisory board has representation for cattle and horses, and sheep and goats, then only one representative and one alternate representing each class shall be selected. The wildlife members of the advisory boards within each State will select one of their number and one alternate to serve as a wildlife member on the State advisory board. In addition, the State advisory board will have one or more additional members, but not exceeding seven, who will represent other interests such as forestry, minerals, soil conservation, outdoor recreation, urban and suburban development, county government, and State government. Such additional members and their alternates will be selected by the State Director from nominations made by State or local government officers or organizations reflecting nonlivestock interests in the management or disposition of public lands. The time and place for meetings of the State advisory board shall be set by the State Director. The board shall select from its members one member to be chairman of the board. The co-chairman of the board shall be the State Director.

(g) *National Advisory Board Council.* The livestock members of each State advisory board shall select from their number, at its first meeting of each new term, one member and one alternate representing cattle and horses, and one member and one alternate representing sheep and goats, to serve on the National Advisory Board Council. The elected wildlife member or his alternate on each State advisory board will serve on the National Advisory Board Council representing wildlife interests. The State Director from each of the ten Western States with organized grazing districts shall submit a list of nominees, selected from the nonlivestock and nonwildlife membership on the State board. From this list, and other sources as he may determine, the Secretary of the Interior or his authorized representative shall appoint members, not exceeding ten in number, to the National Advisory Board Council to represent nonlivestock and nonwildlife interests. In addition to the above membership, one member from each of the States of Alaska and Washington will be appointed by the Secretary of the Interior or his authorized representative from a list submitted by the respective State Directors pursuant to nominations made by State or local government officers or organizations reflecting interests in grazing or other uses of public lands. The Council shall select from its members one member to be chairman of the Council. The co-chairman of the Council shall be an official of the Department of the Interior appointed by the Secretary of the Interior who shall set the time and place for such meetings of the National Advisory Board Council.

(h) *Functions and duties of State advisory boards and National Advisory Board Council.* The State advisory boards shall consider and make recommendations on grazing, wildlife, forestry, outdoor recreation, minerals, soil conservation, urban and suburban development, and other resource administration policies or problems affecting the State as a whole. Simarly, the National Advisory Board Council shall consider and make recommendations on policies and problems of a national scope related to all natural resource use and management. The operations of the State boards and the National Council, including their meetings, shall conform to the committee management requirements of the Secretary of the Interior as set forth in the Departmental Manual.

Sec. 161.14 *Local associations of stockmen*--(a) *Organization.* Qualified applicants for grazing licenses or permits in any grazing district may organize a local association, or several associations, according to classes of livestock, or by community of interest or otherwise.

(b) *Articles of incorporation; constitutions; by-laws.* Such associations shall be organized as corporations "not-for-profit", if permissible under the laws of the State in which the grazing district, or the greater part thereof, is situated; or they may be organized as cooperative unincorporated associations. In either case the articles of incorporation, the charters, or the constitutions of such associations shall be submitted to the State Director for approval before the association may be recognized by the Bureau. The bylaws of such associations need not be submitted but in any instance which they are in conflict with the provisions of this part or the terms of any license, permit, or cooperative agreement issued to or made with an association, the latter shall prevail.

(c) *Powers.* Such local association shall be authorized to exercise one or more of the following powers, to be specifically set forth in the articles of incorporation, charter, or constitution, as the case may be, of such association:

(1) To make contributions in cash, property, material or labor toward the administration, protection, and improvement of the Federal range lying within the district.

(2) To construct and maintain fences, wells, reservoirs, and other improvements necessary to the care and management of the livestock grazed in the district under permit issued by the Bureau.

(3) To act in an advisory capacity in the administration of the Federal range lying within the district.

(4) To recommend the amount, manner of apportionment, time, and method of collection of assessments for strictly association purposes, as well as for the public purposes, contemplated by the act.

(5) To enter into cooperative agreement for any of the foregoing purposes or for any other purposes authorized by the act. In addition, the association's powers may include, among others, the power to lease or otherwise acquire the control of State, county, privately owned, tax default, or other lands within or near a district.

(d) *Cooperative agreements for use of lands; obligation of licensees and permittees to share cost.* Whenever the grazing capacity of Federal range is increased whether by reason of the acquisition of control of any lands by the Bureau or otherwise, through a cooperative agreement with a local association, any licensee or permittee benefiting thereby, whether a member of the association or not, shall pay to the association his proportionate share of the cost of the association lands and of the cost of installation, development, and maintenance of range improvements, including reseeding, plus any authorized association assessments for other expenses. Such share shall be determined by the District Manager after consideration of the recommendation of the association. The District Manager may refuse to issue a license or permit to any applicant or may cancel or refuse to renew the license or permit of any licensee or permittee to graze on any lands covered by such agreement, whether public or association lands, and whether or not such applicant, licensee, or permittee is a member of the association, if he fails or refuses to pay to the association any of the foregoing charges.

Sec. 161.15 *Construction and maintenance of improvements on the Federal range*--(a) *Qualification of applicants for permits.* An applicant for a permit to construct or maintain improvements under section 4 of the act, or to use and maintain improvements of such character constructed and owned by a prior occupant, on the Federal range, must be qualified under Sec. 161.3(a).

(b) *Applications.* Applications for such permits shall be filed in triplicate with the District Manager on form 4-1115.

(c) *Appeals.* The District Manager will act on the application after reference to the advisory board and such action shall be final unless the applicant or any interested party appeals in accordance with Sec. 161.10.

(d) *Assignments.* Assignments of section 4 permits shall be filed with the District Manager in triplicate on the authorized form and shall not be effective until approved by the District Manager.

(e) *Applications for use of improvements owned by prior occupant; procedure upon failure to agree.* Where an application shows that the applicant and the prior occupant have not agreed on the value of such improvements owned by the latter, the District Manager will promptly, at the applicant's expense, cause the prior occupant to be served either personally or by certified mail with a notice of the filing of the application, and an order to show cause within thirty days why the improvements should not be determined to be of the value alleged by the applicant. Upon such a showing, or if the prior occupant applies within thirty days from the date of service for an appearance before the District Manager, then in the light of such evidence as the applicant and the prior occupant may present in such appearance, the District Manager will determine the present reasonable value of the improvements. Such determination shall be final unless an appeal is taken in accordance with Sec. 161.10. Upon the failure of the prior occupant to show cause or to apply within thirty days for an appearance, the reasonable value of the improvements will be determined by the District Manager but shall be not less than the amount alleged by the applicant in his application, and the decision of the District Manager in such case shall be final. In any case when a decision has become final, payment by the applicant of the amount determined and a showing that the improvements are free of all encumbrances may be required prior to favorable action on the application for use of such improvements, and on any application for grazing privileges involving the use of such improvements.

(f) *Cooperative agreements.* A licensee or permittee may enter into a cooperative agreement with the District Manager for the construction and maintenance of range improvements on the Federal range. Failure of the licensee or permittee to comply with the terms of such an agreement within a reasonable time as allowed by the District Manager may result in cancellation of the license or permit as provided in Sec. 161.9(d).

(g) *Applications for lands containing range improvements; compensation; reservation.* Public lands embraced in a license or permit are subject to classification and disposition under the provisions of sections 7 and 14 of the act, or other public land laws, as specified in Sec. 161.5(e).

(1) When the disposal application covers land upon which range improvements have been placed pursuant to a permit authorized under section 4 of the act, the owner thereof may be required to remove the improvements; or if the improvements are of a permanent nature, the land applicant may be required to agree in writing to compensate the licensee, permittee, or other owner of such improvements located on the lands applied for an amount to be mutually agreed upon, or, if the parties are unable to agree, then in the amount and within the time for payment as determined by the District Manager in accordance with the applicable procedure under paragraph (e) of this section.

(2)(i) When the disposal application covers public land upon which range improvements have been placed by the United States, or pursuant to a cooperative agreement heretofore or hereafter entered into between the Bureau and the licensee, permittee, and/or other cooperators, the disposal application will be referred by the land office manager to the District Manager for determination as to whether it may be allowed, notwithstanding such improvements, and, if so, whether with or without a reservation. If the application is to be allowed without a reservation of the improvements, the applicant may be required to agree in writing to compensate for the loss of such improvements in the amounts to be mutually agreed upon and payable separately to the Bureau and to the cooperators. If such improvements have been constructed in whole or in part with Federal funds and are administered by the Bureau of Land Management, and the application for disposal is in satisfaction of any lieu or indemnity selection right of any State under R.S. 2275, as amended (43 U.S.C. 851), such application may be allowed in the discretion of the authorized officer without compensation to the United States for its share of the value of the improvements, if the authorized officer shall first determine that the grazing improvements are no longer used or needed by the United States for the purpose for which the improvements were constructed and that the probable salvage value is insufficient to warrant the expense of removal of the salvageable materials in such improvements. In the event of disagreement, the District Manager shall determine the total amount of compensation due, as provided in paragraph (e) of this section, and the time for payment. Such amount shall then be payable separately to the Bureau and to the cooperators entitled thereto, in proportion to the amount or value of their respective contributions in money, material, or labor, to the total cost of the improvement, as made by them under the original cooperative agreement as specified by the District Manager.

(ii) The refusal or failure of the land applicant to pay the licensee, permittee, or other party entitled thereto, in accordance with the agreement or in the amount fixed by the District Manager and within the time allowed, shall be just cause for the rejection of an application or for the cancellation of any rights or interests in the lands acquired by the applicant by reason of the allowance of his application. Such rejection or cancellation shall be subject to the right of appeal directly to the Director and to the Secretary, in accordance with the rules of practice (Part 221 of this chapter).

(3) Under the act of July 9, 1942, as amended (43 U.S.C. sec. 315q), the holder of a grazing license or permit shall be compensated for the losses sustained by reason of cancellation of or prevention of use of authorized grazing privileges resulting from the use of lands embraced in such license or permit for war or national defense purposes, in an amount determined to be fair and reasonable and to be paid by the head of the Federal department or agency making such use. Such payment shall be deemed payment in full for such losses.

Sec. 161.16 *Special rules for grazing districts.* Whenever it appears to a State Director after considering the recommendation of the district advisory board that local conditions in any district make necessary the adoption of a special rule on any of the matters in this part in order better to achieve an administration consistent with the purposes of the act, he may, recommend such a rule, supported by a factual showing of its necessity, for the approval of the Director. Such rule, if approved, shall be published in the FEDERAL REGISTER.

Sec. 161.17 *Contributions for administration, protection, and improvement of public lands.* The District Manager may accept contributions under section 9 of the act, of labor, materials, equipment, or money, toward any of the Bureau's functions in administering, protecting, and improving public lands under its jurisdiction in the States.

(a) Any individual, association, corporation, grazing district advisory board, State or local body or private group, may enter into an agreement with the District Manager with respect to such contribution. Where the contribution is to include money, the contributor should execute forms 4–1268 or 4–1269 as requested by the District Manager.

(b) Contributions may be conditioned upon their use for specific projects or in specific localities.

(c) Upon written request of the contributor, the District Manager may authorize refund of any amounts deposited in excess of the contributor's proper share of the expense incident to the purpose for which the contribution was made.

Sec. 161.18 *Pledge of licenses and permits as security for loans; application for extension of permit term by borrower-permittee.*

(a) A license or permit may be pledged as security for a loan of $500 or more from a lending agency if the loan is for the purpose of furthering the licensee's or permittee's livestock operations. Before making a loan, a lending agency may obtain from the District Manager a written statement concerning the status of the grazing license or permit and other pertinent information relating thereto. A service charge of $10 will be made for searching the records to furnish such information, except that Federal and State lending agencies shall be exempt from the charge.

(b) A borrower-permittee desiring an extension of the term of his permit may file a request therefor, in writing, with the District Manager, setting forth the name of the lending agency, purpose and amount of loan, and the need for the extension of the permit term. When it appears that such extension will be in accordance with applicable law and regulation and not contrary to the public interest, the District Manager, in his discretion, may extend the permit for a period not to exceed 10 years from the date of the loan, subject to the rules and regulations then in force and to such additional terms and conditions as the District Manager may provide. The provisions of this paragraph shall not be applicable to grazing licenses which are issued annually on a temporary basis prior to the issuance of term permits.

(c) If the base property to which the grazing privileges on the Federal range covered by the pledged license or permit are attached as a grazing unit is acquired by the lending agency through foreclosure or otherwise, such agency, or purchasers, lessees, or occupants of the property authorized by such agency, if qualified, may apply to be recognized as the successor licensee, or permittee. If in selling the property the lending agency takes back a mortgage on the base property, the agency will receive the same consideration as in the case of an original loan.

(d) Where a lending agency files with the District Manager notice that it has made a loan and has accepted a grazing license or permit as security therefor in conformity with the provisions of this section, the District Manager as a matter of cooperation will keep such agency advised of any adverse action affecting the license or permit, but the failure to give timely notice of such adverse action shall impose no legal liability or obligation on the District Manager or the Bureau or any of its employees.

Sec. 161.19 *Saving clause.* So far as practicable and consistent with the purposes and provisions of the act and the basic policy and plan of administration outlined in Sec. 161.1(a), the provisions of sections 161.1 to 161.19 inclusive will not be applied to the prejudice of the position of anyone who on the date of approval of this part was the holder of a grazing license or permit or who on that date had pending an application therefor.

This Circular replaces Circulars 1948, 1969, 1988, 2010, 2045, 2046, 2058, 2070, 2071, and 2073.

INT.DUP.,D.C.62- 169

Part 160—Grazing Leases

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Sec. 160.1 *Statutory authority.* Section 15 of the act of June 28, 1934 (48 Stat. 1275), as amended, authorizes the Secretary of the Interior to lease for grazing purposes vacant, unappropriated, and unreserved public lands outside of established grazing districts in the continental United States only. Grazing leases for other public lands intermingled with the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant lands which are located west of the Cascade Mountain Range Divide, or in and west of Range 5 East, or west of Klamath Lakes and Link River in T's. 36 to 41 S., Rs. 6 to 9 E., inclusive, Willamette Meridian, Oregon, will be issued pursuant to and will be governed by the provisions of Part 115 of this chapter.

Sec. 160.2 *Definitions.* (a) "Secretary" means Secretary of the Interior.

(b) "Director" means Director, Bureau of Land Management.

(c) "State Director" means the proper State Director, Bureau of [1] Land Management.

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[1] Where the lands applied for include the even-numbered sections within the limits of a railroad grant, even though in the aggregate such lands exceed 760 acres, each such section will be considered as an isolated or disconnected tract within the meaning of this provision. The difference between the higher preference right accorded under this paragraph and the preference accorded under paragraph (b) of this section is that the applicant is not required to demonstrate that the public lands are necessary for the proper use of the contiguous or cornering lands, except where there are conflicting applications of the same class of applicants.

(d) "Manager" means manager of the proper land office. Where there is no land office, it means the Director, Bureau of Land Management.

(e) "Signing Officer" means the Government official who has been duly authorized to issue a grazing lease.

(f) "Field Office" means any office of the Bureau of Land Management, including the land office, near the lands applied for and in the State in which such lands are situated. If there is no land office or other field office in the State, it means the office of the Director Bureau of Land Management, Washington 25, D. C.

(g) "The act" means the act of June 28, 1934 (48 Stat. 1269), as amended.

Sec. 160.3 *Classes of applicants; preference rights.* The act, as amended, provides for the issuance of grazing leases to classes of applicants in the following order:

(a) Preference-right leases to applicants who are the owners, homesteaders, lessees, or other lawful occupants of lands contiguous to or cornering on an isolated or disconnected tract embracing 760 acres or less for the whole of such tract, upon the terms and conditions prescribed by the Secretary, provided the preference-right is asserted during a period of 90 days after such tract is offered for leases.[2]

(b) Preference-right leases to applicants who are owners, homesteaders, lessees, or other lawful occupants of contiguous lands to the extent necessary to permit the proper use of such contiguous lands.

(c) Leases where no preference-right applicant is involved.

Sec. 160.4 *Qualifications of applicants.* An applicant for a grazing lease is qualified if the applicant

(a) Is a citizen of the United States, or

(b) Has filed a declaration of intention to become a citizen: *Provided,* that an applicant who has filed such declaration but has not filed a petition for naturalization before a court of competent jurisdiction within seven years from the date of filing the declaration or, having filed such petition, has failed to attain citizenship within a reasonable time thereafter and is unable to show any satisfactory reason for such failure, shall be disqualified to receive a grazing lease or any renewal of an existing lease until he has actually attained citizenship, or

(c) Is a group, association, or corporation which is authorized to conduct business under the laws of the State in which the lands applied for are located and the controlling interest in which is vested in a citizen or citizens or persons who would be qualified as individual applicants under paragraphs (a) and (b) of this section.

Sec. 160.5 *Application and lease.* (a) An application for lease shall be executed in triplicate on combined application and lease form (4–721) and filed in triplicate in any field office of the Bureau of Land Management in the state in which the lands applied for are situated.[3] The applicant's signature to the application shall be considered to be his signature to and his acceptance of the lease when executed by the signing officer, without prejudice to the applicant's right to appeal from the disallowance of his application as to any part of the lands applied for or from the issuance of a lease for a shorter term than that applied for.

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[2] By Departmental Notice of July 31, 1937, all vacant, unreserved and unappropriated public lands, exclusive of Alaska, not included in an established grazing district, were then offered for lease under section 15; all lands not then subject to lease under section 15 because of their appropriation or reservation, were offered for lease as of the date any such lands first became subject to lease.

[3] 18 U. S. C. 1001 makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

(b) A filing fee of $10 will be charged for each grazing lease application, including an application arising out of the assignment of leased lands, when it embraces in whole or in part lands which are not already under lease by the applicant or by the assignor on the date of filing such application.

Sec. 160.6 *No right conferred by application, prior to lease.* The filing of an application will not segregate the land applied for from application by other persons for a grazing lease or from other disposition under the public land laws. As the issuance of a lease is discretionary, the filing of an application for a lease will not in any way create any right in the applicant to a lease, or to the use of the lands applied for pending the issuance of a lease. Any such unauthorized use constitutes a trespass.

Sec. 160.7 *Protests.* Protests against the the approval of an application for a lease should be filed in the same manner and number of copies as applications for a grazing lease, contain a complete disclosure of all facts upon which the protest is based, and describe the lands involved in such protests and should be accompanied by evidence of service of a copy of the protest on the applicant. If the protestant desires to lease all or part of the land embraced in the application against which the protest is filed, the protest should also be accompanied by an application for a grazing lease.

Sec. 160.8 *Leases of withdrawn or reserved lands; preference right leases for lands restored from withdrawal.* (a) The signing officer may issue leases for public lands withdrawn for resurvey, or withdrawn and reserved in aid of legislation, or for power sites, classification or other public purposes,[4] if the use of the land for grazing is not inconsistent with the purposes of the withdrawal. Lands included in stock driveway and public water reserve withdrawals may be leased in accordance with the sec. 295.7 (c) of this chapter. Any lease issued covering withdrawn lands must contain the stipulations which have been prescribed for the protection and use of the land for the purpose for which it was withdrawn or reserved.

(b) Where public lands are restored from a withdrawal and the signing officer determines that a grazing lease for the lands may be issued, the party using such lands or part thereof for grazing purposes under authority of the agency which had jurisdiction over the land immediately prior to their restoration, shall have a superior preference right o lease the restored lands previously used by him. The preference right must be asserted and an application for lease on combined application and lease form 4-721 (see sec. 160.5) must be filed not more than 90 days after the date of signing of the order of revocation of the withdrawal, or not more than 90 days after the end of the current lease year under which the land is being used, whichever is the later. The application must be accompanied by a copy of the prior lease, license, permit or other authority upon which the preference claim is based. The new lease will be dated as of the first day following the end of such current lease year, or as of the date of its issuance, in the discretion of the signing officer and for such term as he may determine.

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[4] Certain lands withdrawn for reclamation purposes are, pursuant to the cooperative agreement of February 28, 1945, between the Bureau of Reclamation and the Bureau of Land Management, leased in accordance with principles of section 15 leases, under authority of subsection (I) of section 4, act of December 5, 1924 (43 Stat. 703, 43 U. S. C. sec. 501). Those lands withdrawn for reclamation purposes which are not subject to the Cooperative Agreement of February 28, 1945, will, upon restoration from the reclamation withdrawal become subject to the provisions of paragraph (b) of this section.

Sec. 160.9 *Action on defective application or where the lands applied for are not subject to grazing leasing.* Upon the filing of any application, the officer receiving it may require any defects in the application to be cured or additional information to be provided. The signing officer may reject any application if the applicant fails to cure defects in the application within the time allowed, which period shall not be less than thirty days from the date of receipt of notice of such defects by the applicant. If the application must be rejected because of the status of the land for which application is made as where land is in an allowed entry, otherwise appropriated or reserved and not subject to lease under the act, or not public land, a manager, if his office has land status, or a signing officer shall reject the application.

Sec. 160.10 *Disposition of protests and conflicting applications.* (a) The lease will be executed by the signing officer and transmitted to the lessee only after final action is taken on any protests or timely appeals which may have been filed. The lease will provide for an allowance of forage for wildlife, and within the discretion of the signing officer the number of livestock to be grazed, proper grazing season or reservations for authorized trailing across the land, and will contain the standard provisions set forth in the combined application and lease form, together with any other terms, conditions, or reservations which the signing officer in his discretion may deem necessary and proper.

(b) In those cases where more than one applicant applies for the same land and where it appears that a division of the lands should be made, such conflicting applicants will be given an opportunity to agree to a division of the lands prior to a determination by the signing officer as to the disposition of such conflicting applications or division of the lands.

(c) After a division of the range has been made either by agreement between applicants which is acceptable to the signing officer or by determination of the signing officer where there is no acceptable agreement, any conflicting applications or protests filed subsequent thereto will be rejected.

Sec. 160.11 *Reduction in leased area; adjustment of grazing use to conform with changes in grazing capacity.* The leased area may be reduced if it is determined that such area is required for the protection of sources of water supply to communities, or for camping places, stock driveways, roads and trails, or town sites, or for feeding grounds near communities for the use of domestic livestock or near the slaughtering or shipping points for use of stock to be marketed or for other public purposes; the authorized grazing use may be adjusted to conform to changes in grazing capacity estimates. In the case of any such reduction or adjustment, a proportionate adjustment will be made in the rental for the lease years commencing subsequent to the notice of such reduction or adjustment.

Sec. 160.12 *Lease lands subject to disposition; compensation to lessee for loss of improvements.* (a) Lands embraced in a grazing lease are subject to disposition under the provisions of the Act of June 28, 1934 (48 Stat. 1272, 1274), as amended, or other public land laws. Before any application for such disposition is allowed, evidence must be furnished that the applicant has agreed to compensate the lessee and the United States for any grazing improvements placed on the lands under the authority of the lease, permit, or cooperative agreement in an amount and manner to be mutually agreed upon. If such improvements have been constructed in whole or in part with Federal funds and are administered by the Bureau of Land Management, and the application for disposal is in satisfaction of any lieu or indemnity selection right of any State under R.S. 2275, as amended (43 U.S.C. 851), such application may be allowed in the discretion of the authorized officer without compensation to the United States for its share of the value of the improvements, if the authorized officer shall first determine that the grazing improvements are no longer used or needed by the United States for the purpose for which the improvements were constructed and that the probable salvage value is insufficient to warrant the expense of removal of the salvageable materials in such improvements. If the parties are unable to agree as to the amount, manner, and time for compensation for such improvements, the amount, manner, and time shall be fixed by the authorized officer. The failure of the applicant to comply with the agreement or the conditions fixed by the authorized officer shall be just cause for cancellation of any right or interest in the lands acquired by the applicant by reason of the allowance of his application.

(b) Where part of the leased lands are disposed of as provided by this section, the subsequent annual rental charges will be reduced proportionately to reflect the loss of the lands from the leasehold Such reduced rentals shall apply to rentals for the lease years commencing subsequent to the notice of such reduction.

Sec. 160.13 *Access to leased lands; temporary closing of leased area.* (a) The issuance of a grazing lease does not alter or restrict the right of access across the leased lands by licensed hunters or fishermen or restrict their right to hunt and fish on such lands in accordance with the laws of the United States or of the state in which the lands are located, nor may the lessee interfere with such rights. Nor shall such lease restrict or limit prospecting, locating, developing, mining or patenting the mineral resources in the leased lands; miners, prospectors and mineral lessees of the United States and all other authorized persons shall be entitled to enter the leased lands.

(b) The State Director, in his discretion, may close temporarily to grazing portions of the leased lands whenever, because of depletion of the vegetal cover due to drought, epidemic, fire, or any other cause, such action is necessary to restore the forage on the range to its normal condition. Such temporary closing will not operate to exclude such lands from the lease.

Sec. 160.14 *Rentals, schedule of grazing fees; billing notices; effect of failure to pay.*

(a) The annual rental charge for the use of the leased land will be based on the number of acres under lease, the estimated grazing capacity in AUMs (animal unit months), and the rate per AUM indicated in the then-current schedule of grazing fees established by the Director, Bureau of Land Management. The schedule of grazing fees will be established and may be modified, revised, or amended as the Director may determine from time to time and notice thereof shall be published in the FEDERAL REGISTER. The schedule rate will be effective (1) immediately as to new leases issued after date of publication; (2) 30 days after publication as to existing leases, the rental period of which begins after the 30-day period. The minimum rental on a lease shall not be less than $1 per annum.

(b) Rental groups: (1) Where the rental charge for a new lease is $50 or less for the full term of the lease, the entire amount shall be paid in advance and the rental charges will not be revised during the term of the lease. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in sections 160.11 and 160.12;

(2) Where the rental for the entire lease term exceeds $50 and the rental for the first three-year period is $100 or less, the total amount for such three-year period shall be paid in advance. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in sections 160.11 and 160.12. Rental

charges may be revised at the end of each three-year period based on the grazing fee schedule then in effect. Billing notices will be issued prior to the termination of each three-year period and the rental is due and payable upon receipt of the billing notice;

(3) Where the amount of the rental charge for the first three-year period would exceed $100, the rental shall be charged and paid annually based on the then effective grazing fee schedule. A billing notice for the amount of such annual rental will be sent each lessee in advance and is due and payable upon receipt. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in sections 160.11 and 160.12.

(c) Effect of failure to pay: The first rental payment required under a proposed lease in accordance with this section shall be made within 10 days from receipt of the lease form; if not paid within such time the lease shall be null and void and of no effect and all rights of the proposed lessee thereunder or under the application upon which it is based shall be considered as terminated. Subsequent rental payments for succeeding lease periods as required by paragraph (b) (2) or (3) of this section are payable in advance. In any event, if such payment is not received in the proper office by the last day of the current lease period, or within 10 days of lessees' receipt of the billing notice, whichever is the later, then the lease shall be considered as cancelled and all rights thereunder terminated as of the end of such current lease period.

(d) No refund of rentals properly paid in accordance with the regulations in this part and the terms of the lease will be made because of a failure to use the grazing privileges granted by the lease, except that during periods of range depletion due to severe drouth or other natural causes or in case of a general epidemic of disease during the life of the lease the Director will in his discretion remit, refund, reduce in whole or in part, or postpone the payment of rentals for such period of depletion of general epidemic.

Sec. 160.15 *Term of lease.* A lease may be issued for a period of not more than 10 years. Renewals may be for periods of not more than 10 years, upon such terms and conditions as may then be prescribed.

Sec. 160.16 *Application for renewals.* An application for renewal of lease should be executed and filed in triplicate on the combined application and lease form (4–721, at least 90 days prior to the expiration of the lease. The application may also include a request for the consolidation of other outstanding grazing leases held by the lessee. Such application does not confer on the lessee any preference right to a renewal but will, however, authorize the exclusive grazing use of the lands by the lessee in accordance with the provisions of the lease pending final action on the application for renewal.

Sec. 160.17 *Construction and maintenance of improvements*––(a) *Permit required.* After the issuance of a lease, the lessee may fence the lands or any part thereof, develop water by wells, tanks, water holes, or otherwise, and make or construct other improvements for grazing or stock raising purposes, so long as such improvements do not impair the value of the lands or interfere with other uses: *Provided,* That a permit or cooperative agreement is obtained under the procedure set forth in this section. The lessee will be required to comply with the provisions of the laws of the state in which the leased lands are located with respect to the cost and maintenance of fences.

(b) *Applications for permits and cooperative agreements.* Applications for permits, cooperative agreements, or arrangements to construct and maintain range improvements shall set forth the location of such improvements by legal subdivision of the public land survey, the necessity, use, cost, and description of such improvements, item by item, shall designate the time and manner of their construction, the period of use, the method of operation, protection, repair, removal, or other disposition, and shall include any other pertinent information. When necessary to explain properly the improvements and matters connected therewith, the application shall be accompanied by a sketch of the improvements with specifications and a map showing the location of the improvements. Applications for a permit shall be made on Form 4–1115 and shall be filed in triplicate with the signing officer. Application for a cooperative agreement shall be made on Form 4–1119.

(c) *Action on the application.* Action will be taken on the application by the signing officer. If the application is approved, the signing officer will issue a permit or enter into a cooperative agreement for the construction and maintenance of the improvements which have been approved.

Sec. 160.18 *Removal of improvements.* (a) Upon the expiration of the lease or its earlier termination, the signing officer may in his discretion and upon written application filed by the lessee not more than 30 days after date of such expiration or termination, require a proposed subsequent lessee, prior to the execution of a new lease, to agree to compensate the lessee for any grazing improvements of a permanent nature that have been placed upon the leased lands under authority of a section 15 lease executed prior to November 4, 1948, or thereafter, under a permit issued under sec. 160.17(b). The amount of such compensation shall be determined in accordance with the procedure set forth in sec. 160.12. The failure of the subsequent lessee to pay the lessee in accordance with such agreement shall be just cause for cancellation of the subsequent lessee's lease.

(b) The lessee will be allowed three months from the date of expiration or termination of the lease within which to remove such improvements as are not disposed of in the manner set forth above; if not removed or otherwise disposed of within the said period such improvements shall become the property of the United States. No improvements may be removed at any time the lessee is in default with respect to the lease.

Sec. 160.19 *Cancellation.* Except as otherwise provided in sec. 160.14, if the lessee shall fail to comply with any of the provisions of the regulations in this part or of the lease or of any cooperative agreement (Form 4–1119) entered into with the Bureau of Land Management for the benefit of the lease, and such default shall continue for 30 days after service of written notice thereof, or if the lease was issued improperly through error with respect to a material fact or facts, the lease may be terminated and cancelled by the authorized officer.

Sec. 160.20 *Inspection of leased premises.* The land described in the lease shall be subject to inspection at all reasonable times by duly authorized representatives of the Department of the Interior. Other Federal agents, as well as game wardens, shall be permitted access to the lands in connection with necessary official business.

Sec. 160.21 *Assignment of lease; subleases.* No part of the leased lands may be subleased. The lessee may assign the lease only with the consent of the signing officer. The proposed assignment must be filed with the signing officer within 90 days from date of its execution, and shall contain all the terms and conditions agreed upon between the parties, and the assignee's agreement to be bound by the terms of the lease, together with triplicate copies of the combined application and lease form (4–721) properly executed by the assignee, setting forth all the data required thereby. No assignment will be recognized nor will it confer on the assignee any rights to the leased area until a lease therefor is issued to him.

Sec. 160.22 *Pledge of leases as security for loans; applications for extension of lease by borrower-lessee.* (a) A lease may be pledged as security for a loan of $500 or more from a lending agency if the loan is for the purpose of furthering the lessee's livestock operations. Before a loan is made, the lending agency may obtain from the authorized officer a written statement concerning the status of the grazing lease and other pertinent information relating thereto. A service charge of $10 will be made for searching the records to furnish such information, except that Federal and State lending agencies shall be exempt from the charge.

(b) An application by a borrower-lessee for an extension of the lease term should be executed and filed in triplicate on combined application and lease form (4--721). When it appears that such extension will be in accordance with applicable law and not contrary to the public interest, the signing officer in his discretion may extend the lease for a period not to exceed 10 years from the date of the loan, subject to such terms and conditions as are then provided by the regulations in this part, and by the signing officer.

(c) If the property of the lessee which was the basis for the granting of a preference right is acquired by the lending agency through foreclosure or otherwise, such agency or its occupants of the property or a purchaser of the property from the agency, if qualified, may apply on combined application and lease form (4--721) to be recognized as the new lessee. If, in selling the property, the lending agency takes back the mortgage on the property the agency will receive the same consideration as in the case of an original loan.

(d) Where a lending agency files in the office of the authorized officer notice that it has made a loan and has accepted a grazing lease as security therefor, in conformity with the provisions of this section, such agency will be advised of any adverse action taken affecting the lease, but the failure to give timely notice of such adverse action shall impose no legal liability or obligation on the Bureau or any of its employees.

Sec. 160.23 *Appeals; filing.* An appeal from any decision rendered pursuant to sections 160.1 to 160.23, inclusive, may be taken to the Director and the Secretary, in accordance with the rules of practice (Part 221 of this chapter). The appeal should be filed with the officer who rendered the decision.

This Circular replaces Circular 2056.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

[Circular 2076]

PART 257—SALE OR LEASE OF SMALL TRACTS

Miscellaneous Amendments

1. The caption and text of § 257.2 are revised to read as follows:

§ 257.2 Criteria.

(a) It is the program in the administration of the act of June 1, 1938, as amended, to promote the beneficial utilization of the public lands subject to the terms thereof, and at the same time to safeguard the public interest in the lands. To this end small tract activity shall be coordinated with interested local governmental agencies, and small tract sites will be considered in the light of their effect upon the conservation of natural resources and upon the communities or area involved and in the light of availability of schools, utilities, and other facilities. Lands will not be leased or sold, for example, which would lead to private ownership or control of scenic attractions, or water resources, or other areas that should be kept open to public use. Nor will isolated or scattered settlement be permitted which would impose heavy burdens upon State or local governments for roads; schools; police, health, and fire protection; and other facilities. Undesirable types of construction for settlement or business along public highways and parkways will be guarded against, and lands will not be leased or sold under the act if such action would unreasonably interfere with the use of water for grazing purposes or unduly impair the protection of watershed areas or the stability of existing economic enterprises.

(b) Under this act lands may be classified for direct sale, for lease and sale, or for lease only. Revested Oregon and California Railroad lands and reconveyed Coos Bay Wagon Road grant lands in Oregon will be classified for lease only—as will other public lands where title should remain in the United States and leasing is not contrary to the interests of the United States. Lands suitable for community site purposes will be classified for lease, lease and sale, or direct sale at appraised prices and will be subject to application only by nonprofit corporations or associations, States, municipalities, or other governmental subdivisions. Lands may be classified for lease and sale, as provided for in § 257.13, where such action is necessary for the protection of adjacent property and the community as a whole. In other cases, lands will be sold at public auction at not less than their appraised fair market value in accordance with § 257.14.

2. Paragraph (a) of § 257.9 is amended to read as follows:

§ 257.9 Advance payment.

* * * * *

(a) If the land has been classified for lease or for lease and sale, the advance payment is the rental for the entire lease period, as specified in the classification order if such period does not exceed five years. Where lands are classified for lease for periods in excess of five years, the advance payment will be as specified in the classification order. If the land has not been classified, the advance payment is $25 for nonbusiness and $100 for business site applications. Successful applicants will be required to pay any difference between advance payment and rental or purchase price before their applications will be granted.

3. Paragraph (b) of § 257.10 is amended to read as follows:

§ 257.10 Community sites; appraisal; restrictions.

* * * * *

(b) Where lands are sold at less than fair market value in accordance with paragraph (a) of this section, the patent will contain a provision for reversion of title to the United States if the lands are used for any purpose not consistent with the classification order after issuance of patent unless consent to change the use is first obtained from the authorized officer.

4. Paragraph (b) of § 257.11 is amended to read as follows:

§ 257.11 Lease provisions; terms and rentals.

* * * * *

(b) The amount of rental will be specified in the appropriate order. The rental for community sites will take into consideration the purpose for which the land will be used. Rental for other types of sites will equal the fair market rental of the lands, provided, however, the minimum rental will be $100 per year for business sites and $25 per year for other sites.

5. Paragraph (d) (1), (2), and (3) of § 257.13 are revoked and paragraph (a) is revised to read as follows:

§ 257.13 Leases with option to purchase; sale; patent.

(a) Leases for lands classified for lease and sale will contain an option to purchase clause. The option to purchase clause will afford the lessee or his duly approved successor in interest an opportunity to purchase the tract at any time within the term of the lease, provided the improvements required by the lease have been made and all other terms and conditions of the lease complied with. The net purchase price of the land will be the appraised fair market value of the unimproved land as of the date of the lease minus an amount equal to the advance rental for each full lease year, if any, subsequent to the filing of an allowable application to purchase

6. Paragraph (a) of § 257.14 is revised to read as follows:

§ 257.14 Public auctions.

(a) Whenever lands are classified for direct sale by public auction, they will be sold at not less than their appraised fair market value at the time and place and in the manner specified by the classification order.

STEWART L. UDALL,
Secretary of the Interior.

FEBRUARY 2, 1962.

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER I—MINERAL LANDS

[Circular 2077]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES, AND LICENSES

Limitation on Time To Institute Suit To Contest Secretary's Decision

Section 191.16 is amended to read as follows:

§ 191.16 Limitation on time to institute suit to contest a Secretary's decision.

No action contesting a decision of the Secretary involving any oil and gas lease shall be maintained unless such action is commenced or taken within 90 days after the final decision of the Secretary relating to such matter.

STEWART L. UDALL,
Secretary of the Interior.

MARCH 3, 1962.

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INTERIOR

Chapter I--Bureau of Land Management, Department of the Interior

Circular 2078

PART 192--OIL AND GAS LEASES

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TERMINATION OF LEASES

192.160 Relinquishments of leases or portions thereof.
192.161 Cancellation and termination of lease.

AUTHORITY: §§ 192.1 to 192.161 issued under sec. 32, 41 Stat. 450; 30 U. S. C. 189.

GENERAL PROVISIONS

§ 192.1 *Applicability of amendatory act to existing leases.* Prior to the filing of the notice of election hereinafter referred to, the act of August 8, 1946 (60 Stat. 950; 30 U. S. C. 181) applies to leases issued prior to the date of that act only where the amendatory act so provides. The owner of any lease issued prior to August 8, 1946, may elect pursuant to section 15 to come entirely under the provisions of that act by filing a notice of election to have his lease governed by the amendatory act, accompanied by the consent of the surety if there is a bond covering the lease. A notice of election so filed shall constitute an amendment of all provisions of the lease to conform with the provisions of the amendatory act and the regulations issued hereunder.

§ 192.2 *Helium.* The ownership of and the right to extract helium from all gas produced from lands leased or otherwise disposed of under the act have been reserved to the United States. Appropriate provision is made in leases with respect to the recovery of helium.

§ 192.3 Acreage limitations on leases and options.

(a) No person, association, or corporation shall take hold, own, or control at one time oil and gas leases (including options for such leases or interests therein) whether directly through ownership of leases or interests in leases and applications, or offers therefor or indirectly as a member of an association or associations or as a stockholder of a corporation or corporations, holding leases or interests therein and applications or offers therefor for more than 246,080 acres in any one State, of which no more than 200.000 acres may be held under option, except that in the State of Alaska the acreage limitation is 300,000 acres in the northern leasing district and 300,000 acres in the southern

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leasing district, of which no more than 200,000 acres may be held under option in each of the two leasing districts.

(1) The boundary between the two leasing districts in the State of Alaska is the left limit of the Tanana River from the boundary between the United States and Canada to the confluence of the Tanana River and Yukon River and the left limit of the Yukon River from said confluence to its principal southern mouth.

(2) Leases or offers or applications for leases committed to any unit or cooperative plan approved or prescribed by the Secretary of the Interior shall not be included in computing accountable acreage. Leases or offers or applications for leases subject to an operating, drilling, or development contract approved by the Secretary of the Interior pursuant to section 17(j) of the act, other than communization agreements, shall be excepted in determining the accountable acreage of the lessees or operators.

(3) Where, as the result of the termination or contraction of a unit or cooperative plan, or the elimination of a lease from operating, drilling, or development plan, a party holds or controls excess accountable acreage, such party shall have 90 days from such termination or contraction or elimination in which to reduce his holdings to the prescribed limitation and to file proof of such reduction in the proper land office.

(b) In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease shall be such party's proportionate part of the total lease acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage except that no person shall be charged with his pro rata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than ten per centum of the stock or other instruments of ownership or control of such association or corporation. An option held by a corporation or an association on September 2, 1960 shall not, for a period of 3 years, be charged to any stockholder of the corporation or member of the association so long as it is so held. Parties owning a royalty or other interest determined by or payable out of a percentage of production from a lease will be charged with a similar percentage of the total lease acreage.

(c) No lease will be issued and no transfer or operating agreement will be approved until it has been shown that the offeror, transferee, or operator is entitled to hold the acreage or obtain the operating rights.

(d) At any time upon request by the authorized officer of the Bureau of Land Management, the record title holder of any lease or a lease operator or a lease offeror or the holder of any lease option may be required to file in the appropriate land office a statement, showing as of a specified date the serial number and the date of each lease of which he is the record holder, or under which he holds operating rights, or for which he holds an option, and each application or offer for lease held or filed by him in the particular State setting forth the acreage covered thereby, and the nature, extent and acreage interest, including royalty interests held by him in any oil and gas lease of which the reporting party is not the lessee of record, whether by corporate stock ownership, interest in unincorporated associations and partnerships, or in any other manner.

(e)(1) If any person holding or controlling only leases or interests in leases or options or interests in options is found to hold accountable acreage in violation of the provisions of this section and of the act, the last lease or leases or interest or interests acquired by him which with the options or interests in options created the excess acreage holding shall be cancelled or forfeited in their entirety, even though only part of the acreage in the lease or interest constitutes excess holdings, unless it can be shown to the satisfaction of the Director of the Bureau of Land Management that the holding or control of the excess acreage is not the result of negligence or willful intent in which event the lease or leases shall be cancelled only to the extent of the excess acreage.

(2) If any person holding or controlling leases or interests in leases only, or applications or offers for leases only, or both leases or interest in leases and applications or offers or options or interests in options below the acreage limitation provided in this section, files an application or offer, or a group of applications or offers (filed simultaneously), or options or interests in options or group thereof which causes him to exceed the acreage limitation, the application or offer, or group of applications or offers, causing the excess holding, will be rejected in its entirety.

(3) If any person holding or controlling both leases or interests in leases and applications or offers for leases, or options or interests in options or only applications or offers for leases below the acreage limitation provided in this section, acquires a lease or leases, or an option or options or interests therein, which cause him to exceed the acreage limitation, his most recently filed application or offer for lease or applications or offers for lease then containing acreage in excess of the limitation provided in this section will be rejected in its or their entirety. For the purpose of this subparagraph, time of filing shall be determined by the time of filing marked on the application or offer or if the same time is marked on two or more applications or offers, by the serial number of the applications or offers.

(4) The provisions of this paragraph shall not limit any action which the Department may take with respect to excess acreage holdings in cases not otherwise covered by this paragraph.

§ 192.4 Options.

(a) No option to acquire any interest in an oil and gas lease shall be enforceable if entered into for a period of more than three years (inclusive of any renewal period, if provided for in the option) without the prior approval of the Secretary. The acreage to which the option is applicable shall be charged both to the optionor and to the optionee, but the charge to the optionor shall cease when the option is exercised. If the option covers only a part of the optionor's interest in the acreage included in a lease, the acreage to which the option is applicable shall be fully charged to the optionor, and a share thereof shall also be charged to the optionee as his interest may appear. Upon the exercise of the option, the acreage shall be charged to the parties pro rata as their interests may appear. An unexercised option remains charged during its term until notice of its relinquishment or surrender has been filed in the appropriate land office.

(1) No option or renewal thereof executed after September 1, 1960, shall be enforceable until notice thereof has been filed in the appropriate land office. No such notice shall be required for options or renewals executed prior to September 2, 1960. Each such notice shall include (i) the names and addresses of the parties thereto; (ii) the serial number of the lease or application for lease to which the option is applicable; (iii) a statement of the number of acres covered thereby and of the interests and obligations of the parties thereto; and (iv) the interest to be conveyed and retained on exercise of the option. Such notice shall be subscribed by all parties to the option or their duly authorized agents. The filing of an executed copy of the option containing the above information shall satisfy the foregoing requirement. In addition, the notice of option must contain or be accompanied by a signed statement, by the holder of the option, that he is the sole party in interest in the option; if not, he shall set forth the names and nature and extent of the interest therein of the other interested parties, the nature of the agreement between them if oral, and a copy of such agreement, if written.

(b) An option hereafter taken on a lease application or offer may be for the period of time until issuance of the lease and three years thereafter. Where it is sought to obtain options for periods in excess of those provided in the preceding sentence, an application should be filed with the authorized officer of the Bureau of Land Management, accompanied by a complete showing as to the special or unusual circumstances which are believed to justify approval of the application.

(c) Within the meaning of this section, options may be taken only on lands embraced in leases and offers or applications for leases and the acreage included in any such option taken upon an application or offer for a lease shall be chargeable from and after the date of such option.

(d) It shall be permissible for any such option to provide that where all or any part of the land covered thereby is included in a cooperative or unit plan (as defined in § 192.20) duly executed by the parties and submitted to the Secretary for final approval prior to the expiration of the three-year option period, then, as to that part of the land covered by said option which is included in said cooperative or unit plan, such option shall not expire until a date 30 days after the date of final approval or disapproval by the Secretary of that cooperative or unit plan.

(e) Each holder of an option must file in the appropriate land office within 90 days after June 30 and December 31 of each year duplicate statements showing as of the prior June 30 and December 31, respectively (1) his name and the name and address of each grantor of an option held by him, the serial number of every lease, application or offer for lease subject to option; (2) date and expiration date of each option; (3) number of acres covered by each option; (4) aggregate number of options held in each State, and total acreage thereof; and (5) a statement of his interest and obligation under each option; provided, that the statement of his interest and obligation with respect to any option shall not be required where such interests and obligations have been set forth in the notice required under paragraph (a) of this section and there have been no changes in such interests and obligations since such filing. Option statements covering lands in the State of California shall be filed in the land office at Sacramento, California. The failure of the holder of an option to file such statement shall render the option unenforceable by him, but this shall not diminish the acreage deemed to be held under option by the optionee in computing the amount chargeable under § 192.3 and shall not relieve any party thereto of any liability to cancellation, foreiture, forced disposition, or other sanction provided by law.

(f) If the statement shows or it is otherwise ascertained that the optionee holds options in excess of the prescribed limitation, he will be given 30 days within which to file proof of reduction of his option holdings to the limitations prescribed by the act.

§ 192.5 *Lands within one mile of naval petroleum or helium reserves.* No oil and gas lease will be issued for land within one mile of the exterior boundaries of a naval petroleum or a helium reserve, unless the land is being drained of its oil or gas deposits or helium content by wells on privately owned land or unless it is determined by the authorized officer, after consultation with the agency exercising jurisdiction over the reserve, that operations under such a lease will not adversely affect the reserve through drainage from known productive horizons.

§ 192.6 Boundaries of known geologic structures and productive limits of producing oil or gas fields and deposits.

(a) The Director of the Geological Survey will determine the boundaries of the known geologic structures of producing oil or gas fields, and, where necessary to effectuate the purposes of the act, the productive limits of producing oil or gas deposits as such limits existed on August 8, 1946.

(b) Determinations of "structures defined" will be followed, as soon as practicable, by the filing in the appropriate land office of maps or diagrams showing the structure boundaries, and by publication in the FEDERAL REGISTER of notices that the determinations have been made. Because determinations of "structures undefined" are usually of a more temporary nature, maps or diagrams thereof will not be filed and notices thereof will not be published; however, a memorandum of each such determination will be filed in the appropriate land office and will be available for public inspection. Additional information concerning the procedures used in making the determinations may be obtained from the Geological Survey, Washington 25, D.C.

(c) In accordance with long-standing rulings of the Department, if the producing character of a structure underlying a tract of land is actually known prior to the date of the Department's official pronouncement on that subject, it is the date of the ascertainment of the fact, and not the date of the pronouncement, that is determinative of rights which depend upon whether the land is or is not situated within a known geologic structure of a producing oil or gas field. Ernest A. Hanson, A-26375 (May 29, 1952), and cases cited therein. All determinations are subject to change at any time upon receipt of further information through the drilling of wells and other sources. Accordingly, lessees or applicants for leases should not rely upon the maps, diagrams, determinations or notices thereof, as currently controlling documents.

(d) Any lessee or his operator may apply to the Director of the Geological Survey for a determination whether the land in his lease is inside or outside the productive limits of a producing oil or gas deposit as such limits existed on August 8, 1946.

§ 192.7 *Agreements to compensate for drainage.* Upon a determination by the Director of the Geological Survey that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, the authorized officer of the Bureau of Land Management, may execute agreements with the owners of adjacent lands whereby the United States, or the United States and its lessees, shall be compensated for such drainage, such agreements to be made with the consent of any lessee affected thereby. The precise nature of any agreement will depend on the conditions and circumstances involved in the particular case.

§ 192.8 *Protection of leased lands from drainage.* (a) Where land in any lease is being drained of its oil or gas content by a well either on a Federal lease issued at a lower rate of royalty or on land not the property of the United States, the lessee must drill and produce all wells necessary to protect the leased lands from drainage. In lieu of drilling such wells, the lessee may, with the consent of the Director of the Geological Survey, pay compensatory royalty in the amount determined in accordance with 30 CFR 221.21.

(b) The payment of compensatory royalty under this section or § 192.7 shall extend the primary or extended term of any lease for the period during which such compensatory royalty is paid, and for a period of one year from the discontinuance of such payment, and for so long thereafter as oil or gas is produced in paying quantities.

§ 192.9 *Leasing of wildlife refuge lands, game range lands and coordination lands*—(a) *Definitions*—(1) *Wildlife refuge lands.* Such lands are those embraced in a withdrawal of public domain and acquired lands of the United States for the protection of all species of wildlife within a particular area. Sole and complete jurisdiction over such lands for wildlife conservation purposes is vested in the United States Fish and Wildlife Service even though such lands may be subject to prior rights for other public purposes or, by the terms of the withdrawal order, may be subject to mineral leasing.

(2) *Game range lands.* Game ranges created by a withdrawal of public lands and reserved for dual purposes, namely protection and improvement of the public grazing lands and natural forage resources and conservation and development of natural wildlife resources, are under the joint jurisdiction of the Bureau of Land Management and the United States Fish and Wildlife Service.

(3) *Coordination lands.* These lands are withdrawn or acquired by the Government and made available to the States by cooperative agreements entered into between the United States Fish and Wildlife Service and the game commissions of the various States, in accordance with the act of March 10, 1934 (48 Stat. 401), as amended by the act of August 14, 1946 (60 Stat. 1080), or

by long-term leases or agreements between the Department of Agriculture and the game commissions of the various States pursuant to the Bankhead-Jones Farm Tenant Act (50 Stat. 525), as amended, where such lands were subsequently transferred to the Department of the Interior, with the United States Fish and Wildlife Service as the custodial agency of the Government.

(4) *Alaska wildlife areas.* Such lands are areas in Alaska created by a withdrawal of public lands for the management of natural wildlife resources and administered by the United States Fish and Wildlife Service.

(b) *Leasing policy and procedure.* (1) No offers for oil and gas leases covering wildlife refuge lands will be accepted and no leases covering such lands will be issued except as provided in subparagraph (2) of this paragraph. There shall be no drilling or prospecting under any lease heretofore or hereafter issued on lands within a wildlife refuge except with the consent and approval of the Secretary of the Interior with the concurrence of the Fish and Wildlife Service as to the time, place and nature of such operations in order to give complete protection to wildlife populations and wildlife habitat on the areas leased, and all such operations shall be conducted in accordance with the stipulations in the Bureau of Land Management stipulation form 4–1383, issued pursuant to this section.

(2) In instances where it is determined by the Geological Survey that any of the lands mentioned in paragraph (a) (1), or any of the lands mentioned in paragraph (a) (2), (3) and (4) of this section and defined in this section as not available for leasing are subject to drainage, the Bureau of Land Management, with the concurrence of the United States Fish and Wildlife Service, will process an offering inviting competitive bids in accordance with the then existing regulations relating to competitive oil and gas leasing. Such leases shall be issued only upon approval by the Secretary of the Interior and shall contain such stipulations as are necessary to assure that leasing activities and drilling shall be carried out in such a manner as will result in a minimum of damage to wildlife resources.

(3) As to game range lands and Alaska wildlife areas, representatives of the appropriate office of the Bureau of Land Management and the United States Fish and Wildlife Service will confer for the purpose of entering into an agreement specifying those lands which shall not be subject to oil and gas leasing. No such agreement shall become effective, however, until approved by the Secretary of the Interior. As to coordination lands, representatives of the Bureau of Land Management and the United States Fish and Wildlife Service will, in cooperation with the authorized members of the various State game commissions, confer for the purpose of determining by agreement those lands which shall not be subject to oil and gas leasing.

(4) The remaining lands in paragraph (a) (2) and (4) of this section not closed to oil and gas leasing will be subject to leasing on the imposition of such stipulations agreed upon by the Fish and Wildlife Service and the Bureau of Land Management. The remaining lands in paragraph (a) (3) of this section not closed to oil and gas leasing will be subject to leasing on the imposition of such stipulations agreed upon by the State Game Commission, the United States Fish and Wildlife Service, and the Bureau of Land Management.

(c) *Publication and filing of agreements; filing of lease offers.* The agreements referred to in paragraph (b) (3) of this section shall be published in the FEDERAL REGISTER and shall contain a description of the lands affected thereby which are not subject to oil and gas leasing, together with a statement of the stipulations agreed upon by the parties thereto for inclusion in such leases to assure that all operations under the lease shall be carried out in such a manner as will result in a minimum of damage to wildlife resources. The agreements, as supplemented by maps or plats specifically delineating the lands will be filed in the appropriate land offices of the Bureau of Land Management where they may be inspected by the public at the usual hours specified for that purpose. Lease offers for such lands will not be accepted for filing until the tenth day after the agreements and supplemental maps or plats are noted on the land office records.

(d) *Suspension of pending applications.* All pending offers or applications heretofore filed for oil and gas leases covering game ranges, coordination lands, and Alaska wildlife areas, will continue to be suspended until the agreements referred to in paragraph (b) (3) of this section shall have been completed.

(e) *Lands in requested withdrawal.* All existing offers or applications for oil and gas leases covering lands included in requests for withdrawals for wildlife refuges, game ranges, coordination lands or Alaska wildlife areas, as defined herein, shall be suspended until after the consummation of the withdrawal, and thereafter such offers shall be considered in accordance with the provisions of this section.

COOPERATIVE CONSERVATION PROVISIONS

§ 192.20 *Cooperative or unit plans.*[1] The act authorizes lessees and their representatives to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of such pool, field, or like area is then subject to any cooperative or unit plan of development or operation). The agreement must be for the purpose of more properly conserving the natural resources of any such oil or gas pool, field, or area covered thereby and must be determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary, with the consent of the lessees, is authorized to establish, alter, change or revoke drilling, producing, rental, minimum royalty, and royalty requirements of the leases and to make such regulations with reference to such leases as he may deem necessary or proper to secure the protection of the public interest. All leases committed to any unit or cooperative plan approved or prescribed by the Secretary of the Interior shall be excepted in determining acreage charges.

§ 192.21 *Application for approval of plan.* The procedure in obtaining approval of a cooperative or unit plan of development including suggested text of an agreement acceptable to the Department is contained in 30 CFR Part 226, "Unit or Cooperative Agreements". All applications to unitize and all documents incident thereto shall be filed in the office of the oil and gas supervisor, Geological Survey, for the region in which the unit area is situated.

§ 192.22 *Communitization or drilling agreements.* (a) The Secretary is authorized when separate tracts under lease cannot be independently developed and operated in conformity with an established well-spacing or well-development program, to approve communitization or drilling agreements for the lease or any portion thereof with other lands, whether or not owned by the United States, when in the public interest. Operations or production pursuant to such an agreement shall be deemed to be operations or production as to each lease committed thereto.

(b) Preliminary requests to communitize separate tracts shall be filed in triplicate with the oil and gas supervisor and executed agreements shall be submitted in sufficient number to permit retention of five copies by the Department after approval.

(c) The agreement shall describe the separate tracts comprising the drilling or spacing unit, shall show the apportionment of the production or royalties to the several parties and the name of the operator, and shall contain adequate provisions for the protection of the interests of all parties, including the United States. The agreement must be signed by or in behalf of all necessary parties and will be effective only after approval by the Secretary of the Interior as provided therein.

§ 192.23 *Approval of operating, drilling, or development contracts without regard to acreage limitations.* (a) The authority of the Secretary to approve operating, drilling, or development contracts without regard to acreage limitations ordinarily will be exercised only to permit operators or pipe-line companies to enter into contracts with a number of lessees sufficient to justify operations on a large scale for the discovery, development, production, or transportation of oil or gas and to finance the same.

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[1] For the extension of leases committed to a unit plan, see § 192.122.

(b) A contract submitted for approval under this provision should be filed with the appropriate land office manager, Bureau of Land Management, together with enough copies to permit retention of 5 copies by the Department after approval. It should be accompanied by a statement showing all the interests held by the contractor in the area or field and the proposed or agreed plan of operation or development of the field. All the contracts held by the same contractor in the area or field should be submitted for approval at the same time, and full disclosure of the project made. Complete details must be furnished in order that the Secretary may have facts upon which to make a definite determination in accordance with the provisions of the act, and prescribe the conditions on which approval of the contracts is made.

§ 192.24 *Combinations for joint operation of refinery, or for transportation of oil.* Upon obtaining the approval of the Secretary, lessees may combine their interests in leases for the purpose of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells or from the wells of other lessees, or to increase the acreage which may be acquired or held under the provisions of section 17 of the act relating to competitive leases. An application under this section, together with enough copies to permit retention of 5 copies by the Department after approval should be filed with the Director, Bureau of Land Management. The application must show a reasonable need for the combination and that it will not result in any concentration of control over the production or sale of oil and gas which would be inconsistent with the anti-monopoly provisions of the law.[2]

§ 192.25 *Subsurface storage of oil or gas.* (a) In order to avoid waste or to promote conservation of natural resources, the Secretary of the Interior, upon application by the interested parties, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under the act. Such authorization will provide for the payment of such storage fee or rental on the stored oil or gas as may be determined adequate in each case, or, in lieu thereof, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease used for the storage of oil or gas shall be extended for the period of such storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(b) Applications for subsurface storage shall be filed in triplicate with the oil and gas supervisor and shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental, or royalty offered to be paid for such storage and all essential information showing the necessity for such project. Enough copies of the final agreement signed by the parties in interest shall be submitted for the approval of the Secretary to permit retention of 5 copies by the Department after approval.

ISSUANCE OF LEASES

§ 192.40 Classes and term.

(a) All lands subject to disposition under the act which are known or believed to contain oil or gas may be leased by the Secretary of the Interior. When within the known geologic structure of a producing oil or gas field such land may be leased only by competitive bidding and in units of not exceeding 640 acres to the highest responsible qualified bidder at a royalty of not less than 12½ percent. Leases for not to exceed 2,560 acres, except where the rule of approximation applies, entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width measured in cardinal directions, may be issued for all other land subject to the act to the first qualified offeror at a royalty of 12½ percent.

(b) All competitive leases shall be for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities and noncompetitive leases for a primary term of ten years and so long thereafter as oil or gas is produced in paying quantities.

§ 192.40a *Dating of competitive and noncompetitive oil and gas leases.* All competitive and noncompetitive oil and gas leases, excepting renewal leases, will be dated as of the first day of the month following the date the leases are signed on behalf of the lessor except that where prior written request is made a lease may be dated the first of the month within which it is so signed.

§ 192.41 *Leases for lands wholly or partly within unit areas.* (a) Before issuance of an oil and gas lease for lands within an approved unit agreement, the lease applicant or offeror or successful bidder will be required to file evidence that he has entered into an agreement with the unit operator for the development and operation of the lands in his lease under and pursuant to the terms and provisions of the approved unit agreement, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, he will be permitted to operate independently but will be required to conform to the terms and provisions of the agreement with respect to such operations.

(b) In case an application or offer for a noncompetitive lease embracing lands partly within and partly without the exterior boundaries of a unitized area is found acceptable, separate leases will be issued, one embracing the lands within the unit area, and one the lands outside of such area.

NONCOMPETITIVE LEASES

§ 192.42 *Offer to lease, and issuance of lease.* (a) To obtain a non-competitive lease an offer to accept such lease must be made on Form 4–1158, "Offer to lease and lease for oil and gas," or on unofficial copies of that form in current use: *Provided,* That the copies are exact reproductions of one page of both sides of the official approved one page form and are without additions, omissions or other changes or advertising. Form 4–1158 or a valid reproduction of the official form will also constitute the lease when signed by the Manager of the Land Office.

(b) Five copies of Form 4–1158, or valid reproduction thereof, for each offer to lease shall be filed in the proper land office, or for land or deposits in States for which there are no land offices, with the Director of the Bureau of Land Management, Washington 25, D. C.[3] If less than five copies are filed, the offer will not be rejected, if not otherwise subject to rejection, until 30 days from filing have elapsed and if during that period the remaining required copies are filed, the offeror's priority will date from the date of the first filing. If the additional copies are not filed within the 30-day period, the offer will be rejected and returned and will afford no priority to the offeror. Should the additional copies be filed after the 30-day period but before the offer has been rejected, the offeror will have a priority as of the later filing date. The offer must be filed on a form in effect at the date of filing. For the purpose of this part an offer will be considered filed when it is received in the proper office during business hours.

(c) The offeror shall mark one of the copies first filed at the top with the word "original." If that is not done, the manager will so mark one copy. If there is any variation in the land descriptions among the five copies, the copy marked "original" shall govern as to the lands covered by the lease.

(d) Each offer must be filled in by typewriter or printed plainly in ink and signed in ink by the offeror or the offeror's duly authorized attorney in fact or agent. An offer may be made by a legal guardian or trustee in his name for the benefit of a non-alien minor or minors but an offer may not be filed by a

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[2] Rights-of-way for oil and gas pipe lines may be granted as provided for in §§244.00 to 244.66 of this chapter.

[3] Offers for lands or mineral deposits in the following States should be filed at the land office named: North or South Dakota, land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma, at Santa Fe, New Mexico.

minor. An offer may not include more than 2,560 acres except where the rule of approximation applies. The lands in the offer must be entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width. No offer may be made for less than 640 acres except where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation or such a plan which has been approved as to form by the Director of the Geological Survey, or where the land is surrounded by lands not available for leasing under the act.

(e) Each offer, when first filed, shall be accompanied by:

(1) A filing fee of $10 which will be retained as a service charge, except as provided in paragraph (g) of this section, even though the offer should be rejected or withdrawn in whole or in part.

(2) Full payment of the first year's rental based on the total acreage if known, and if not known, on the basis of 40 acres for each smallest legal subdivision.

(3) (i) Except in a case where an officer of a corporation signs an offer on behalf of the corporation (as to which see paragraph (f) of this section), evidence of the authority of the attorney in fact or agent to sign the offer and lease, if the offer is signed by such attorney or agent on behalf of the offeror.

(ii) A statement over the offeror's signature setting forth whether the offeror's direct and indirect interests in oil and gas leases, applications, and offers therefor and options exceed 246,080 acres in the same State of which no more than 200,000 acres are under option, or exceed 300,000 acres in each of the northern and southern leasing districts of Alaska, of which no more than 200,000 acres are held under option in each of said leasing districts and in addition, if the offeror is an individual, a statement of his citizenship.

(iii) A signed statement by the offeror that he is the sole party in interest in the offer and the lease, if issued; if not he shall set forth the names of the other interested parties. If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them if oral, and a copy of such agreement if written. Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the lease offer. All interested parties must furnish evidence of their qualifications to hold such lease interest.

(4) (i) If the offer is signed by an attorney in fact or agent, or if any attorney in fact or agent has been authorized to act on behalf of the offeror with respect to the offer or lease, separate statements over the signatures of the attorney in fact or agent and the offeror stating whether or not there is any agreement or understanding between them, or with any other person, either verbal or written by which the attorney in fact or agent or such other person has received, or is to receive, any interest in the lease when issued, including royalty interest or interest in any operating agreement under the lease giving full details of the agreement or understanding, if it is a verbal one; the statement must be accompanied by a copy of any such written agreement or understanding; and if such an agreement or understanding exists, the statement of the attorney in fact or agent should set forth the citizenship of the attorney in fact or the agent or other person and whether his direct and indirect interests in oil and gas leases, applications, and offers including options for such leases or interests therein exceed 246,080 acres in any one State, of which no more than 200,000 acres may be held under option, or exceeds the permissible acreage in Alaska as set forth in § 192.3(a). The statement by the principal (offeror) may be filed within 15 days after the filing of the offer. This requirement does not apply in cases in which the attorney in fact or agent is a member of an unincorporated association (including a partnership) or is an officer of a corporation and has an interest in the offer or the lease to be issued solely by reason of the fact that he is a member of the association or a stockholder in the corporation.

(ii) If the power of attorney specifically limits the authority of the attorney in fact to file offers to lease for the sole and exclusive benefit of the principal and not in behalf of any other person in whole or in part, and grants specific authority to the attorney in fact to execute all statements of interest and of holdings in behalf of the principal and to execute all other statements required, or which may be required, by the Acts and the regulations, and the principal agrees therein to be bound by such representations of the attorney in fact and waives any and all defenses which may be available to the principal to contest, negate or disaffirm the actions of the attorney in fact under the power of attorney, then the requirement that statements must be executed by the offeror will be dispensed with and such statements executed by the attorney in fact will be acceptable as compliance with the provisions of the regulations.

(5) If the offer is made by a guardian or trustee, a certified copy of the court order authorizing him to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; his statements as to the citizenship and holdings of each of the minors; and a similar statement as to his own citizenship and holdings under the leasing act, including his holdings for the benefit of other minors.

(6) If the offer is made by an association (including a partnership), it must be accompanied by a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(f) If the offeror is a corporation the offer must be accompanied by a statement showing (1) the State in which it is incorporated, (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (3) the percentage of voting stock and of all the stock owned by aliens for those having addresses outside of the United States, and (4) the names and addresses of the stockholders holding 20 percent or more of the stock of the corporation. When the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate showing of citizenship and holdings of stockholders owning or controlling 20 percent or more of the stock of any class must also be furnished. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

(g) (1) Except as provided in subparagraph (2) of this paragraph, an offer will be rejected and returned to the offeror and will afford the applicant no priority if:

(i) The land description does not comply with the requirements of § 192.42a or the lands are not entirely within an area of six miles square or an area of six surveyed sections in length or width.

(ii) The total acreage exceeds 2,560 acres, except where the rule of approximation applies or is less than 640 acres or the equivalent of a section and is not within the exceptions in paragraph (d) of this section.

(iii) The full filing fee and the first year's rental do not accompany the offer, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision.

(iv) Except if the power of attorney is within the purview of paragraph (e) (4) (ii) of this section, the offer is signed by an attorney in fact or agent in behalf of the offeror and the offer is not accompanied by a statement over the offeror's own signature with respect to holdings and citizenship and by the statements and evidence required by paragraph (e) (4) of this section, and such statement by the principal (offeror) is not filed within 15 days after the filing of the offer.

(iv) The offer is signed by an agent in behalf of the offeror and the offer is not accompanied by a statement over the offeror's own signature with respect to holdings and citizenship and by the statements and evidence required by paragraph (e) (4) of this section.

(v) The offer is signed by a guardian or trustee in behalf of a minor and is not accompanied by the evidence required by paragraph (e) (5) of this section.

(vi) Less than five copies of the offer are filed and the copies lacking are not received in the land office before the expiration of 30 days from the date of receipt of the copies first filed.

(vii) There is noncompliance with item 5 (a) and (e) of the Special Instructions. The offeror will be given an opportunity to file a new offer within 30 days from service of the rejection, and the fee and rental payments on the old offer will be applied to the new offer if the new offer shows the serial and receipt numbers of the old offer. The advance rental will be returned unless within the 30-day period another offer is filed.

(2) An offer to lease containing any of the following deficiencies will be approved by the signing officer provided all other requirements are met:

(i) An offer deficient in the first year's rental by not more than 10 percent. The additional rental must be paid within 30 days from notice under penalty of cancellation of the lease.

(ii) An offer covering not more than 10 percent over the maximum allowable acreage of 2,560 acres. The lease will be approved for 2,560 acres in the discretion of the signing officer or so much over that amount as may be included under the rule of approximation.

(iii) An offer completed in pencil or script.

(iv) An offer on a lease form not currently in use.

(v) An offer or a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect at the date of filing.

(h) An offer may not be withdrawn, either in whole or in part, unless the withdrawal is received by the land office before the lease, an amendment of the lease, Form 4–1163, or a separate lease, whichever covers the land described in the withdrawal, has been signed on behalf of the United States.

(i) The United States will indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease by the signature of the appropriate officer thereof in the space provided. An executed copy of the lease will be mailed to the offeror at the address of record.

(j) If any of the land described in item 2 of the offer is open to oil and gas filing when the offer is filed but is omitted from the lease for any reason and thereafter becomes available for leasing to the offeror, the original lease will be amended to include the omitted land unless before the issuance of the amendment to Form 4–1158 the land office receives a withdrawal of the offer as to such land or an election to receive a separate lease in lieu of an amendment. Such election shall consist of a signed statement by the offeror asking for a separate lease accompanied by a new offer on Form 4–1158 describing the remaining lands in his original offer, executed pursuant to this section. The new offer will have the same priority as the old offer. It need not be accompanied by the filing fee. The rental payment held on the original offer will be applied to the new offer. The rental and the lease term for the land added by such an amendment shall be the same as if the land had been included in the original lease when it was issued. If a separate lease is issued, it will be dated in accordance with § 192.40a.

(k) A transfer of the whole interest in all or any part of the offer may be approved as an incident to the transfer, by assignment or otherwise, of the whole interest in all or any part of the lease. A transfer of an undivided fractional interest in the whole offer may be approved as an incident to the transfer of an undivided fractional interest in the whole lease. An application for approval of a transfer of an offer must include a statement that the transferee agrees to be bound by the offer to the extent that it is transferred and must be signed by the transferee. In other instances transfers of an offer will not be approved prior to the issuance of a lease for the lands or deposits covered by the said transfers.

(l) If an offeror dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed, and if probate has been completed, or is not required, to the heirs or devisees, provided there is filed in all cases an offer to lease in compliance with the requirements of this section which will be effective as of the effective date of the original application or lease offer filed by the deceased. If there are any minor heirs or devisees, such offer can only be made by their legal guardian or trustee in his name. Each such offer must be accompanied by the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person who as executor or administrator submits the offer, and bond form if a bond is required, has authority to act in that capacity and to sign the offer and bond forms.

(ii) A statement over the signature of each heir or devisee, similar to that required of an offeror under paragraph (e) (4) of this section concerning citizenship and holdings.

(iii) Evidence that the heirs or devisees are the heirs or devisees of the deceased offeror and are the only heirs or devisees of the deceased.

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the offeror and the provisions of the law of the deceased's last domicile showing that no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to holdings and citizenship, similar to that required under paragraph (e) (4) of this section, except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(m) No lease shall be issued before final action has been taken on (1) any prior offer to lease the land, (2) any subsequent offer to lease the land that is based upon an alleged preferential right, and (3) any petition for the renewal or reinstatement of an existing or former lease on the land. If a lease is issued before final action has been taken on such an offer or petition, it shall be canceled, after due notice to the lessee, if the offeror or petitioner is found to be qualified and entitled to receive a lease on the land.

§ 192.42a Description of lands in offer.

(a) If the lands have been surveyed under the public land rectangular system, each offer must describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, each offer must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska the description of unsurveyed lands must be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by any agency of the United States (such as the U.S. Geological Survey, the Coast and Geodetic Survey, or the International Boundary Commission), if the record position thereof is available to the general public.

(b) In lease offers embracing unsurveyed public lands adjacent to tidal waters in southern Louisiana and in Alaska, if the offeror finds it impracticable to furnish a metes and bounds description, as required in paragraph (a) of this section with respect to the water boundary, he may, at his option, extend the boundary of his offer into the water a distance sufficient to permit complete enclosure of the water boundary of his offer by a series of courses and distances in cardinal directions (the object being to eliminate the necessity of describing the meanders of the water boundary of the public lands included in the offer). The description in the lease offer shall in all other respects conform to the requirements of paragraph (a) of this section. Such description would not be deemed for any purpose to describe the true water boundaries of the lease, such boundaries in all cases being the ordinary high water mark of the navigable waters. The land boundaries of such over-all area shall include only the public lands embraced in the offer. The offeror shall agree to pay rental on the full acreage included within the description with the understanding that rights under any lease to be issued on that offer will apply only to the areas within that description properly subject to lease under the act, but that the total area described will be considered as the lease acreage for purposes of rental payments, acreage limitations under § 192.3, and the maximum or minimum area to be included in a lease pursuant to § 192.42 (d). The tract should be shown in outline on a current quadrangle sheet published by the United States Geological Survey or such other map as will adequately identify the lands described.

(c) When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys.

(d) The descriptions in leases issued pursuant to offers filed after the effective date of this section will be conformed to the subdivisions of the approved protracted surveys if and when such surveys have been adopted for the area; and the description and acreage of leases issued pursuant to offers filed after the effective date of this section will be adjusted to the official public land surveys when such surveys have been extended over the leased area.

§ 192.43 Availability of lands to further lease offers where noncompetitive lease expires, is cancelled, relinquished or terminated.

(a) Lands in cancelled or relinquished leases or in leases which terminate by operation of law for non-payment of rental pursuant to 30 U.S.C. sec. 188, which are not withdrawn from leasing nor on a known geological structure of a producing oil and gas field shall be subject to the filing of new lease offers only after notation on the official record of the cancellation, relinquishment, or termination of such lease and only in accordance with the provisions of this section. All lands covered by leases which expire by operation of law at the end of their primary or extended terms shall likewise be subject to the filing of new lease offers only in accordance with the provisions of this section except that notation of such expiration of the leases need not be made on the official records.

(b) On the third Monday of each month or the first working day thereafter if the land office is not officially open for business on the third Monday, the authorized officer of the Bureau of Land Management will post on the bulletin board in each land office a list by subdivision, section, township and range if surveyed or officially protracted, or, if unsurveyed, by the metes and bounds description of the lands in leases which expired, were cancelled, relinquished in whole or in part, or terminated and which will become subject to leasing at 10 o'clock a.m. on the fifth working day thereafter together with a notice stating that the lands in such leases are subject to simultaneous filings of lease offers from the time of such posting until 10 o'clock a.m. on the said fifth working day thereafter.

(c) Each offer to lease must conform with the acreage requirements of § 192.42(d), and must be accompanied by separate remittances to cover payment of the filing fee and payment of the advance rental required by the regulations of this chapter. The remittance covering payment of the advance rental must be made by cash, money order, certified check, bank draft, or bank cashier's check. The filing fee may be paid by a similar remittance or by uncertified check.

(d) If more than one offer to lease all or any part of the acreage covered by an expired, cancelled, relinquished, or terminated lease is filed during the period provided for in paragraph (b) of this section, their priorities will be determined by a public drawing in accordance with § 295.8 of this chapter.

(e) Offers to lease which cover lands not within the foregoing categories and which are received in the same mail or over the counter at the same time, will be considered as having been filed simultaneously and priority to the extent of the conflicts between them will be determined by a public drawing in accordance with the provisions of § 295.8 of this chapter.

(f) If no offers to lease all or any portion of the lands in the expired, cancelled, relinquished or terminated leases are received during the period provided for in paragraph (b) of this section the lands for which no offers are received will thereafter become subject to lease in accordance with regulations in this part.

§ 192.44 *Pending applications.* Applications filed prior to the effective date of the regulations in this part will be processed in accordance with the regulations in effect immediately prior to such date and leases will continue to be issued in such cases on Form 4-213, except:

(a) An applicant may, without losing his priority, file Form 4-1158 "Offer and Lease Form" for the land described in his application, pursuant to § 192.42, but without paying the required filing fee, and

(b) From the date of issuance of the regulations in this part until their effective date, Form 4-1158, or unofficial copies thereof, which are exact reproductions on one page of both sides of the official approved one page form, if available, may be filed instead of filing new applications under the prior regulations.

COMPETITIVE LEASES

§ 192.50 *Designation and offer of lands for lease by competitive bidding.* The lands and deposits subject to disposition under the act which are within the known geologic structure of a producing oil or gas field will be divided into leasing blocks or tracts in units of not exceeding 640 acres each, which shall be as nearly compact in form as possible, and offered for lease at a royalty and rental to be specified in the notice of sale, to the qualified person who offers the highest bonus by competitive bidding either at public auction, or by sealed bids as provided in the notice of sale.

§ 192.51 *Notice of lease offer.* Notice of the offer of lands for lease will be by publication once a week for five consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated, or in such other publications as the authorized officer of the Bureau of Land Management may authorize. The notice published in a newspaper of general circulation in the county will contain a statement that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of that notice which shall be that portion of the total advertising cost that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared. The notice will also state the time and place of sale, the manner in which bids may be submitted, the description of the lands, and the terms and conditions of the sale.

§ 192.52 *Qualifications of successful bidder.* The successful bidder at a sale by public auction must on the day of the sale, deposit with the manager of the land office or other officer conducting the sale, and each bidder, if the sale is by sealed bids, must submit with his bid the following: Certified check on a solvent bank, money order, or cash, for one-fifth of the amount bid by him and a statement over the bidder's own signature with respect to citizenship and interests held, similar to that required of an offeror under § 192.42 (e) (3). If the successful bidder is a corporation, it must also file a statement similar to that required by § 192.42 (f).

§ 192.53 *Award of lease.* Following receipt of the report of the auction, or the opening of the sealed bids, the authorized officer, subject to his right to reject any or all bids, will award the lease to the successful bidder. Notice of his action will be forthwith transmitted to the interested parties through the local office. If the lease be awarded, three copies of the lease will be sent to the successful bidder and he will be required within 30 days from receipt thereof to execute them, pay the balance of his bonus bid, the first year's rental, and file a bond as required in § 192.100. If any bid be rejected, the deposit will be returned. If a bidder, after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under this act. If the lease awarded to the successful bidder is executed by an attorney acting in behalf of the bidder, the lease must be accompanied by evidence that the bidder authorized the attorney to execute the lease.

If two or more units are awarded to any bidder, such units, where the acreage does not exceed 640 acres, may be included in a single lease if circumstances warrant.

§ 192.54 *Form of lease.* Competitive leases will be issued on Form 4-213 and the rentals and royalties payable thereunder will be set forth in Schedule "B" affixed thereto and made a part thereof.

EXCHANGE AND RENEWAL LEASES

§ 192.60 *Application to exchange lease for a new lease.* Any lease which issued for a term of 20 years, or any renewal thereof, or which issued in exchange for a 20-year lease prior to August 8, 1946, may be exchanged for a new lease. Such new lease will be issued for a primary term of 5 years and so long thereafter as oil or gas is produced in paying quantities and will contain the rental and royalty rates prescribed in §§ 192.80, 192.81 and 192.82. An application to exchange a lease for a new lease should be filed in triplicate by the lessee with the manager of the appropriate land office and must show full compliance by the applicant with the terms of the lease and applicable regulations.

§ 192.61 *Application for renewal.* (a) Twenty year leases or renewals thereof may be renewed for successive terms of 10 years at the rental and royalty rates specified for such renewal leases in §§ 192.80, 192.81 and 192.82. An application to renew should be filed in triplicate, in the proper office as prescribed in § 192.42 (b), at least 90 days, but not more than six months, prior to the expiration of its term. Such application should be made by the record title holder or holders of the lease and may be joined in or consented to by the operator of record. The application should show whether all moneys due the United States have been paid and whether operations under the lease have been conducted in accordance with the regulations of the Department.

(b) The applicant or his operator shall furnish in triplicate with the application for renewal, copies of all agreements not theretofore filed providing for overriding royalties or other payments out of production from the lease which will be in existence as of the date of its expiration. When such payments, including overriding royalties, are in excess of 5 per cent of gross production a detailed statement of the income from and costs of operation of the lease for the twelve month period immediately preceding the month in which the application for renewal is filed must also be furnished.

§ 192.62 *Action on application.* If the outstanding obligations in excess of five per cent of gross production payable from production do not constitute a burden on the lease prejudicial to the interests of the United States, they will not be considered a bar to its renewal but any lease that may be issued will be upon the condition, to be incorporated in the lease, that if and when the costs of operations, including the payment of overriding royalties or payments out of production, shall be determined by the authorized officer of the Bureau of Land Management to constitute such a burden such royalties and payments shall be reduced to not more than 5 per cent of the value of the production. If no objection to the renewal of the lease appears, copies of a renewal lease, in triplicate, dated the first day of the month in which the original lease terminated, will be forwarded to the lessee for execution. If upon receipt of the executed lease forms and a satisfactory lease bond, the lease is executed, one copy thereof will be delivered to the lessee.

If a determination is made that overriding royalties and payments out of production in excess of 5 percent of gross production constitute a burden on lease operations to the extent that proper and timely development will be retarded, or continued operation of the lease impaired, or premature abandonment of the wells caused, the lease application will be suspended and the parties in interest will be offered an opportunity to reduce the excessive overriding royalties or other payments out of production to not more than 5 percent of the value of the production. If the holders of outstanding overriding royalty or other interests payable out of production, the operator, and the lessee are unable to enter into a mutually fair and equitable agreement, any of the parties may apply for a hearing at which all interested parties may be heard and written statements presented. Thereupon a final decision will be rendered by the Department outlining the conditions acceptable to it as a basis for a fair and reasonable adjustment of the excessive overriding royalties and other payments out of production, and an opportunity will be afforded within a fixed period of time to submit proof that such adjustment has been effected. Upon failure to submit such proof within the time so fixed, the application for renewal will be denied.

§ 192.63 *Form of lease.* Renewal and exchange leases will be issued on Form 4-213. The rentals and royalties payable thereunder will be set out on Schedule C or D as may be appropriate, which schedule is attached thereto and made a part thereof.

LEASE ON PATENTED OR ENTERED LAND

§ 192.70 *Preference right of patentee or entryman to a lease.* (a) An entryman or patentee who made entry prior to February 25, 1920, or an assignee of such entryman or a vendee of such patentee if the assignment or conveyance was made prior to January 1, 1918, for lands not withdrawn or classified or known to be valuable for oil and gas at date of entry shall be entitled, if the entry or patent is impressed with a reservation of the oil or gas, to a preference right to a lease for the land. A settler whose settlement was made prior to February 25, 1920, on land in the same status but which has since been withdrawn, classified, or is known to contain oil or gas, also has such a preference right.

(b) Any offeror for a lease to lands owned, entered or settled upon as stated above must notify the person entitled to a preference right of the filing of the offer and of the latter's preference right for 30 days after notice to apply for a lease. If the party entitled to a preference right files a proper offer within the 30-day period, he will be awarded a lease; but if he fails to do so, his rights will be considered to have terminated.

§ 192.71 *Lands in entries or claims not impressed with a reservation of oil and gas.* (a) Where an offer is filed to lease lands noncompetitively in an entry or settlement claim not impressed with an oil or gas reservation, the offer will be rejected unless it is found that the land is prospectively valuable for oil or gas. An offeror for a lease for land already embraced in a nonmineral entry without a reservation of the mineral, and likewise a nonmineral entryman or settler who is contending that the land is nonmineral in character should submit with their respective offer and application, showings of as complete and accurate geologic data as may be procurable, preferably the reports and opinions of qualified experts.

(b) Should the land be found to be prospectively valuable for oil or gas, the entryman or settler will be notified thereof and allowed a reasonable time to apply for reclassification of the land as nonmineral, submitting a showing therewith, and to apply for a hearing in the event that reclassification is denied, or to appeal. If he does neither, or he is unsuccessful, the entry or settlement rights and any patent issued pursuant thereto will be impressed with a reservation of oil and gas to the United States. In such circumstances a lease will be granted to the offeror, all else being regular, unless the entryman or settler has a preference right. See § 102.22 of this chapter.

§ 192.72 ***Showing required of oil and gas offerors for unsurveyed lands.*** Every offeror for oil and gas lease for unsurveyed lands, must state in his offer that there are no settlers upon the land, or if there be settlers, give the name and post office address of each and a description of the lands claimed, by metes and bounds and approximate legal subdivisions.

§ 192.80 Rentals.

Rentals shall be payable in advance at the following rates:

(a) On noncompetitive leases issued on and after September 2, 1960, under section 17 of the act wholly outside of the known geologic structure of a producing oil and gas field for each lease year an annual rental of 50 cents per acre or fraction thereof.

(1) The lease rentals for the primary and extended terms of all oil and gas leases which issued prior to September 2, 1960, shall be payable at the rates in effect at that time and prescribed in the lease.

(2) The lease rentals for the primary and extended terms of all leases covering lands in the State of Alaska which issued prior to September 2, 1960, pursuant to applications or offers filed after May 3, 1958, shall be payable at the identical rates in effect on May 3, 1958, for leases covering lands in the other States, pursuant to Section 10 of the act of July 3, 1958 (72 Stat. 324; 30 U.S.C., Sec. 251).

(3) The lease rentals for the primary and extended terms of all oil and gas leases covering lands in the State of Alaska which issued pursuant to applications or offers filed prior to and which were pending on May 3, 1958, shall be payable at the rates then applicable to the State of Alaska and as prescribed in the lease.

(b) On leases wholly or partly within the known geologic structure of a producing oil and gas field:

(1) If issued noncompetitively under section 17 of the act, and not committed to a cooperative or unit plan that contains a general provision for allocation of production, beginning with the first lease year after the expiration of thirty days' notice to the lessee that all or part of the land is included in such a structure and for each year thereafter prior to a discovery of oil or gas on the leased lands, rental of $2 per acre or fraction thereof.

(2) If issued noncompetitively under section 17 of the act, and committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, the rental prescribed for the respective lease years in paragraph (a) of this section shall apply to the acreage not within a participating area.

(3) If issued competitively, an annual rental, prior to a discovery on the leased lands, of $2 per acre or fraction thereof, unless a different rate of rental is prescribed in the lease.

(c) On leases issued in any other way, an annual rental of $1.00 per acre or fraction thereof.

§ 192.81 Minimum royalty.

On leases issued on or after August 8, 1946, and on those issued prior thereto if the lessee files an election under section 15 of the act of August 8, 1946, a minimum royalty of $1 per acre in lieu of rental, shall be payable at the expiration of each lease year after a discovery has been made on the leased lands, commencing with the lease year, beginning on or after the date of such discovery, except that on unitized leases the minimum royalty shall be payable only on the participating acreage. If the actual royalty paid during any year aggregates less than $1 per acre the lessee must pay the difference at the expiration of the lease year.

§ 192.82 Royalty on production

(a) On and after August 8, 1946, the following royalty rates shall be paid on the production removed or sold from leases:

(1) 12½ percent royalty on noncompetitive leases issued under section 17 of the act: *Provided, however*, That any holder of a lease for lands in Alaska which issued and was outstanding prior to May 3, 1958, who shall drill and make the first discovery of oil or gas in commercial quantities in any geologic structure shall pay a royalty on all production under the lease of 5 percent for 10 years following the date of such discovery and thereafter the royalty rate shall be 12½ percent. If such lease is committed to an approved unit or cooperative plan under which such a discovery is made, the 5 percent rate herein provided shall, for the purpose of computing royalty due the United States, inure to the benefit of all the land to which an allocation is made under such plan.

(2) Such rates as are prescribed in the notice of sale in the case of all leases thereafter issued by competitive bidding.

(3) 12½ percent on all leases theretofore issued, except competitive leases, and on exchange and renewal leases thereafter issued, as to production from

(i) Land determined by the Director, Geological Survey, not to be within the productive limits of any oil or gas deposit on August 8, 1946.

(ii) An oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease and which is determined by the Director, Geological Survey, to be a new deposit.

(iii) Or allocated to a lease pursuant to an approved unit or cooperative agreement from an oil or gas deposit which was discovered on unitized land after May 27, 1941, and determined by the Director, Geological Survey, to be a new deposit, but only if at the time of discovery the lease or, in the case of an exchange lease, the lease for which it was exchanged was committed to the agreement or was included in a duly executed and filed application for approval of the agreement.

(4) From lands within exchange and renewal leases not subject to subparagraph (3) of this paragraph the rate of royalty shall be identical to that prescribed in the prior lease, except that for a lease issued in exchange for or as a renewal of a lease carrying a flat royalty rate of 5 percent to the United States the royalty shall be as follows:

(i) When the average production of oil for the calendar month in barrels per well per day is:

Not over 110 the royalty shall be 12½%.

Over 110 but not over 130 the royalty shall be 18% of all production.

Over 130 but not over 150 the royalty shall be 19% of all production.

Over 150 but not over 200 the royalty shall be 20% of all production.

Over 200 but not over 250 the royalty shall be 21% of all production.

Over 250 but not over 300 the royalty shall be 22% of all production.

Over 300 but not over 350 the royalty shall be 23% of all production.

Over 350 but not over 400 the royalty shall be 24% of all production.

Over 400 the royalty shall be 25% of all production.

(ii) On gas, including inflammable gas, helium, carbon dioxide, and all other natural gases and mixtures thereof, and on natural or casinghead gasoline and other liquid products obtained from gas; when the average production of gas per well per day for the calendar month does not exceed 5,000,000 cubic feet, 12½ percent; and when the production of gas exceeds 5,000,000 cubic feet, 16⅔ percent of the amount or value of the gas and liquid products produced.

(5) In the case of competitive leases, and other leases theretofore issued, insofar as subparagraphs (3) and (4) of this paragraph are inapplicable, the rates specified in the lease.

(b) The average production per well per day for oil and for gas shall be determined pursuant to 30 CFR Part 221, "Oil and Gas Operating Regulations."

(c) In determining the amount or value of gas and liquid products produced, the amount or value shall be net after an allowance for the cost of manufacture. The allowance for cost of manufacture may exceed two-thirds of the amount or value of any product only on approval by the Secretary of the Interior.

(d) The Secretary of the Interior may establish reasonable values for purposes of computing royalty on any or all oil, gas, natural gasoline, and other liquid products obtained from gas, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices and to other relevant matters. In appropriate cases this will be done after notice to the parties and opportunity to be heard.

§ 192.83 Limitation of overriding royalties.

An agreement creating overriding royalties or payments out of the production of oil which, when added to overriding royalties or payments out of production of oil previously created and to the royalty payable to the United States, aggregate in excess of 17½ percent shall be deemed a violation of the terms of the lease unless such agreement expressly provides that the obligation to pay such excess overriding royalty or payments out of production of oil shall be suspended when the average production of oil per well per day averaged on the monthly basis is 15 barrels or less. The limitation on overriding royalties or payments out of production is not applicable to the production of gas. The limitation in this section will apply separately to any zone or portion of a lease segregated for computing Government royalty.

BONDS

§ 192.100 ***Amount of bonds required of lessee.*** **(a) The successful bidder for a competitive lease prior to the issuance of the lease must furnish a corporate surety bond in the sum of at least double the amount of the $1 per acre annual rental but in no case less than $1,000 nor more than $5,000, conditioned on compliance with all the terms of the lease, and such a bond must also be filed when all or any part of the land in a lease issued non-competitively is included within the limits of a known geologic structure of a producing oil or gas field.**

(b) Until a general lease bond is filed a noncompetitive lessee will be required to furnish and maintain a bond in the penal sum of not less than $1,000 in those cases in which a bond is required by law for the protection of the owners of surface rights.

(c) All leases shall provide that where a $10,000 bond is not already being maintained a general lease bond in the penal sum of $10,000 conditioned upon compliance with all lease terms covering the entire leasehold, shall be furnished by the lessee prior to the beginning of drilling operations. An operator or, if there is more than one operator covering different portions of the lease, each operator may furnish a $10,000 general lease bond in his own name as principal on the bond in lieu of the lessee. Where there are one or more operator's bond affecting a single lease, each such bond must be conditioned upon compliance with all lease terms for the entire leasehold. Where a bond is furnished by an operator, suit may be brought thereon without joining the lessee if he is not a party to the bond. An operator's bond will not be accepted unless the operator holds an operating agreement which has been approved by the Department or has pending an operating agreement in proper condition for approval. The mere designation as operator will not suffice.

(d) Bonds shall be either corporate surety bonds or personal bonds except **that bonds with individual sureties as provided in § 191.13 of this chapter may be furnished for the protection of the entryman or owner of surface rights. Personal bonds must be accompanied by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bond and by a proper conveyance to the Secretary of full authority to sell such securities in case of default** in the performance of the conditions of the lease bond.

(e) **In lieu of bonds required under any of the preceding paragraphs the holder of leases or of operating agreements approved by the Department or holder of operating rights by virtue of being designated operator or agent by the lessees pending departmental approval of operating agreements, may furnish a bond the amount of which must be $150,000 for full nationwide coverage under both the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands of 1947 (61 Stat. 913; 30 U. S. C. 351–369), or at the rate of $25,000 for each unit of coverage. A unit of coverage shall be all the lands in any one State or Territory held by the principal under either the Mineral Leasing Act or the Mineral Leasing Act for Acquired Lands. Coverage under both acts in one State or Territory constitutes two units. In lieu of a surety bond, a personal bond in a like amount may be given by the obligor with the deposit as security therefor of negotiable bonds of the United States of a par value equal to the amount specified in the bond. Where upon a default, the surety makes payment to the Government of any indebtedness due under a lease, the face amount of the surety bond and the surety's liability thereunder shall be reduced by the amount of such payment. Thereafter, upon penalty of cancellation of all of the leases covered by such bond the principal shall post a new nationwide bond in the amount of $150,000 or a unit bond, as the case may be, within 6 months after notice, or within such shorter period as the authorized officer of the Bureau of Land Management may fix. However, in** lieu thereof, the principal may within that time file separate bonds for each lease. **The provisions hereof may be made applicable to any nationwide or unit bond in force at the time of the approval of the amendment of this paragraph by filing in the appropriate land office a written consent to that effect and an agreement to be bound by the provisions hereof executed by the principal and the surety. Upon receipt thereof the bond will be deemed to be subject to the provi**sions of this paragraph.

§ 192.101 ***Form of bonds.*** **Bonds furnished by lessees will be on Form 4–208g; those furnished by operators on Form 4–238; bonds furnished in lieu of other bonds, pursuant to § 192.100 (e), will be on Form 4–1167 for surety bonds or on Form 4–1168 for personal bonds.**

CONTINUATION OR EXTENSION OF LEASE[4]

§ 192.120 Single extension of a noncompetitive lease.

(a) Under the conditions set out in the following paragraphs of this section, the record title holder of any noncompetitive lease maintained in accordance with the statutory requirements and the regulations in this part which issued prior to September 2, 1960, shall be entitled, to a single extension of the lease at the expiration of the initial five-year term unless then otherwise provided by law. An application for such extension may be filed by the record title holder of the lease, by an assignee whose assignment has been filed for approval, or by an operator whose operating agreement has been filed for approval.

(b) The application for extension must be filed, within ninety days before the expiration date of the lease, on Form 4–1238, "Application for Extension of Oil and Gas Lease",[5] or unofficial copies of that form in current use and must be accompanied by a filing fee of $10 which will be retained as a service charge even though the application is later withdrawn or rejected and, unless previously paid, the sixth year's rental: ***Provided,*** **That the unofficial copies are exact reproductions on one sheet of both sides of the official approved one-page form, and are without additions, omissions, or other changes or advertising. Form 4–1238 or a valid reproduction of the official form, will also constitute approval of the extension when signed by an authorized officer.**

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[4] For extension of lease (a) because of suspension of operations and production, see § 191.26 of this chapter; (b) by payment of compensatory royalty, see § 192.8; (c) committed to communitization or drilling agreement, see § 192.22; (d) used for subsurface storage, see § 192.25; (e) segregated by assignment, see § 192.144.

[5] Filed with the Federal Register Division as part of the original document.

(c) If during the 90 day period prior to the expiration date of the lease, the record title holder, assignee or operator files an application or request for an extension not on the prescribed form or unofficial copies thereof, or fails to file the prescribed number of copies, or pay the sixth year's rental, a notice will be issued allowing him 30 days to do so. The application will be rejected if such filing or payment is not made within the time allowed.

(d) Where, upon the expiration of the initial 5-year lease term, the leased lands or any part thereof, have been withdrawn from leasing, the lease will not be extended as to such lands, except that, a withdrawal shall not affect the right to an extension if drilling operations were actually commenced on the withdrawn lands prior to the effective date of the withdrawal and such operations were being diligently prosecuted on the expiration date of the lease, or if notice of the withdrawal has not been sent by registered mail to each lessee to be affected thereby, at least 90 days prior to the termination date of the lease.

(e) Upon compliance with, and in accordance with, the provisions of this section, the lease will be extended, subject to the rules and regulations in force at the expiration of the initial term, (1) as to the lands not within the known geologic structure of a producing oil or gas field, for a period of 5 years, and so long thereafter as oil or gas is produced in paying quantities, and (2) as to lands within the known geologic structure of a producing oil or gas field, for a period of 2 years and so long thereafter as oil or gas is produced in paying quantities.

(f) The timely filing of an application for extension shall have the effect of segregating the leased lands until the final action taken on the application is noted on the tract book, or, for acquired lands, on the official records relating thereto, of the appropriate land office. Prior to such notation, the lands are not available to the filing of offers to lease. Offers to lease filed prior to such notation will confer no rights in the offeror and will be rejected.

(g) Upon failure of the lessee or the other persons enumerated in paragraph (a) of this section to file an application for extension within the specified period, the lease will expire at the expiration of its primary term without notice to the lessee. Notation of such expiration need not be made on the official records, but the lands covered by such expired lease will be subject to the filing of new lease offers only as provided in § 192.43.

§ 192.120a Continuation of lease as a result of actual drilling operations commenced prior to, and continuing at the end of the term.

Any lease on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities. As used in this section "primary term" means all periods in the life of the lease prior to its extension by reason of production of oil or gas in paying quantities.

§ 192.121 *Continuation of lease on termination of production.* (a) A lease which is in its extended term because of production shall not terminate upon cessation of production if, within 60 days thereafter, reworking or drilling operations on the leasehold are commenced and are thereafter conducted with reasonable diligence during the period of nonproduction.

(b) No lease for lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same, unless the lessee fails to place the well on a producing status within 60 days after receipt of notice by registered mail from the Regional Oil and Gas Supervisor to do so: *Provided*, That after such status is established production shall continue on the leased premises unless and until suspension of production is allowed by the Secretary of the Interior under the provisions of the act.

§ 192.122 *Extension for terms of cooperative or unit plan.* (a) Any lease issued for a term of 20 years, or any renewal thereof, committed to a cooperative or unit plan approved by the Secretary of the Interior, or any portion of such lease so committed, shall continue in force so long as committed to the plan, beyond the expiration date of its primary term. This provision does not apply to that portion of any such lease which is not included in the cooperative or unit plan unless the lease was so committed prior to August 8, 1946.

(b) Any other lease issued under any section of the act, committed to any such plan that contains a general provision for the allocation of oil or gas, shall continue in effect as to the land committed so long as the lease remains subject to the plan: *Provided*, That production of oil or gas is had in paying quantities under the plan prior to the expiration date of such lease, whether it be in its primary term or its extended term.

(c) Any lease committed after July 29, 1954 to such a plan, which covers lands within and lands outside the area covered by the plan, shall be segregated, as of the effective date of unitization, into separate leases; one covering the lands committed to the plan and the other the lands not so committed. The segregated lease covering the nonunitized portion of the lands, shall continue in force and effect for the term thereof but for not less than two years from the date of segregation, and so long thereafter as oil or gas is produced in paying quantities.

§ 192.123 *Extension of lease eliminated from cooperative or unit plan or communitization or drilling agreement and of lease in effect at termination of such plan or agreement.* Any lease or portion thereof eliminated from any approved or prescribed cooperative or unit plan or from any communitization or drilling agreement authorized by the act, and any lease in effect at the termination of such plan or agreement, unless relinquished, shall continue in effect for the original term of the lease, or for two years after its elimination from the plan or agreement or the termination thereof, whichever is the longer, and so long thereafter as oil or gas is produced in paying quantities.

§ 192.140 Assignments or transfers of leases or interests therein.

Leases may be assigned or subleased as to all or part of the leased acreage and as to either a divided or undivided interest therein to any person or persons qualified to hold a lease. The assignment or sublease must be accompanied by a signed statement by the assignee or sublessee that he is the sole party in interest in the assignment or sublease; if not, he shall set forth the names of the other interested parties. If there are other parties interested in the assignment or sublease, a separate statement must be signed by them and by the assignee or sublessee setting forth the nature and extent of the interest of each, the nature of the agreement between them, if oral, and a copy of the agreement if written. Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the assignment or sublease. Subject to final approval by the Bureau of Land Management, assignments or subleases shall take effect as of the first day of the lease month following the late of filing in the proper land office of all the papers required by §§ 192.141 and 192.142. No assignment will be approved if the assignee or sublessee or any other parties in interest are not qualified to take and hold a lease or if their bond is insufficient or if they fail to file the statement required by this section. A minor, except a minor heir or devisee of a lessee, is not qualified to hold a lease and an assignment to a minor will not be approved. An assignment of a separate zone or deposit or of a part of a legal subdivision will not be approved unless the necessity therefor is established by clear and convincing evidence.

§ 192.141 *Requirements for filing of transfers.* (a) (1) Except as to assignments of record title, all instruments of transfer of a lease or of an interest therein, including assignments of working or royalty interests, and operating agreements, and subleases, must be filed for approval within 90 days from the date of final execution and must contain all of the terms and conditions agreed upon by the parties thereto, together with a statement over the transferee's own signature with respect to citizenship and interests held, similar to that required of an offeror under § 192.42 (e) (3), (4) and (f).

(2) To obtain approval of a transfer affecting the record title of an oil and gas lease, a request for such approval must be made, within 90 days from the date of the execution of the assignment by the parties. Form 4–1175, "Assignment affecting Record Title to Oil and Gas Lease", or unofficial copies of that form in current use may be used for such transfers and requests for approval: *Provided*, That the unofficial copies are exact reproductions on one sheet of both sides of the official approved one-page form, and are without additions, omissions, or other changes, except that the copies shall include the following statement above the signature of the assignee: "This form is submitted in lieu of official Form 4–1175 and contains all of the provisions thereof as of the date of filing of this assignment." In addition, the name and address of the printer or other party issuing unofficial reproductions of the official form shall be printed thereon. This form may be used for any assignment which affects a transfer of the record title to all or part of an oil and gas lease, but it is not to be used for any other type of transfer. Form 4–1175, or a valid reproduction of the official form, will also constitute approval of the assignment when signed by the manager of the land office.

(3) An application for approval of any instrument of transfer of a lease or interest therein or a filing of any such instrument under § 192.145 must be accompanied by a fee of $10, and an application not accompanied by payment of such a fee will not be accepted for filing by the manager. Such fee will not be returned even though the application later be withdrawn or rejected in whole or in part.

(b) Where an attorney in fact, in behalf of the holder of a lease, operating agreement or of a royalty interest in a producing lease, signs an assignment of the agreement, lease, or interest, or signs the application for approval, there must be furnished evidence of the authority of the attorney to execute the assignment or application, and the statement required by § 192.42 (e) (3).

(c) If a bond is necessary, it must be furnished. Where an assignment does not create separate leases the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. Any assignment which does not convey the assignor's record title in all of the lands in the lease must also be accompanied by consent of his surety to remain bound under the bond of record for the lease interest retained by said assignor, if the bond, by its terms, does not contain such consent. If a party to the assignment has previously furnished a nation-wide bond on either form, 4–1167 or 4–1168, applicable to the State and the act under which the lease issued, no additional showing is necessary by such party as to the bond requirement. If any overriding royalty or payments out of production are created which are not shown in the instrument or agreement, a statement must be submitted describing them. If payments out of production are reserved, a statement should be submitted stating the details as to the amount, method of payment, and other pertinent terms. Assignments of record title interests must be filed in triplicate. A single copy of any additional information specified in Instructions, Form 4–1175,[6] relating to citizenship and qualifications of corporations, will be sufficient. A single executed copy of all other instruments of transfer, or of an operating agreement is sufficient.

(d) In order for the heirs or devisees of a deceased holder of a lease, an operating agreement, or a royalty interest in a producing lease, to be recognized by the Department as the holder of the lease, agreement, or interest, there must be furnished the appropriate showing required under § 192.42 (l).

(e) The assignor or sublessor and his surety will continue to be responsible for the performance of any obligation under the lease until the assignment or sublease is approved. If the assignment or transfer is not approved, their obligations to the United States shall continue as though no such assignment or transfer had been filed for approval. After approval the assignee or sublessee and his surety will be responsible for the performance of all lease obligations notwithstanding any terms in the assignment or sublease to the contrary.

(f) Unless the lease account is in good standing as to the area covered by the assignment when the assignment and bond are filed, or is placed in good standing before the assignment is reached for action the lease will be cancelled as provided in § 192.161.

§ 192.142 *Separate assignments required for transfer of record titles to leases.* A separate instrument of assignment must be filed for each oil and gas lease when transfers involve record titles. When transfers to the same person, association, or corporation, involving more than one oil and gas lease are filed at the same time for approval, one request for approval and one showing as to the qualifications of the assignee will be sufficient.

§ 192.143 *Effect of assignment of particular tract.* When an assignment is made of all or part of the record title to a portion of the acreage in a lease, the assigned acreage becomes segregated into a separate and distinct lease. The assignee becomes a lessee of the Government as to the segregated tract and is bound by the terms of the lease as though he had obtained the lease through an application filed in his own name and the assignment after its approval will be the basis of a new record.

§ 192.144 *Extension of leases segregated by assignment.* (a) Any lease segregated by assignment, including the retained portion, shall continue in effect for the primary term of the original lease, or for two years after the date of discovery of oil or gas in paying quantities upon any other segregated portion of the original lease, whichever is the longer period.

(b) Undeveloped parts of leases retained or assigned out of leases which are in their extended term under any provision of the act shall continue in effect for two years after the effective date of assignment and so long thereafter as oil or gas is produced in paying quantities, provided the parent lease was issued prior to September 2, 1960.

(c) Undeveloped parts of leases retained or assigned out of leases which are extended by production, actual or suspended, or the payment of compensatory royalty shall continue in effect for two years after the effective date of assignment and so long thereafter as oil or gas is produced in paying quantities.

§ 192.145 *Royalty interests in oil and gas leases and assignments thereof.* Royalty interests in oil and gas leases constitute holdings or control of lands and deposits within the meaning of section 27 of the act. In order that the holdings of the assignee may be verified, all assignments of royalty interests must be filed for record purposes but no formal approval will be given. Any such assignment will be deemed to be valid provided it is accompanied by a statement over the assignee's signature that he is a citizen of the United States and that his interests in oil and gas leases do not exceed the acreage limitation as provided in § 192.3 and by the statement as to over-riding royalties required by § 192.83. If any portion of this statement is found to be false the assignment shall be invalid.

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[6] Filed with the Federal Register Division as part of the original document.

TERMINATION OF LEASES

§ 192.160 *Relinquishments of leases or portions thereof.* A lease or any legal subdivision thereof may be surrendered by the record title holder by filing a written relinquishment, in triplicate, in the proper land office. A relinquishment shall take effect on the date it is filed subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to place all wells on the land to be relinquished in condition for suspension or abandonment in accordance with the regulations and the terms of the lease. A statement must be furnished that all moneys due and payable to workmen employed on the leased premises have been paid.

§ 192.161 *Cancellation and termination of lease.*

(a) Any lease issued after July 29, 1954, or any lease which is extended after that date pursuant to § 192.120 on which there is no well capable of producing oil or gas in paying quantities shall automatically terminate by operation of law if the lessee fails to pay the rental on or before the anniversary date of such lease. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. The termination of the lease for failure to pay the rental must be noted on the official records of the appropriate Land Office. Upon such notation the lands included in such lease will become subject to the filing of new lease offers only as provided for in § 192.43.

(b) Whenever the lessee fails otherwise to comply with any of the provisions of the act, of the regulations issued thereunder, or of the lease, such lease may be cancelled by the Secretary of the Interior if not known to contain valuable deposits of oil or gas after notice to lessee in accordance with section 31 of the act, if default continues for the period prescribed in that section after service of notice thereof. Any lessee of a lease which issued prior to July 29, 1954, may, at any time prior to the anniversary date of such lease and the accrual of rental, elect to subject his lease to the automatic termination provisions of this section by notifying, in writing, the manager of the appropriate land office to that effect.

(c) Leases known to contain valuable deposits of oil or gas may be cancelled only by judicial proceedings in the manner provided in sections 27 and 31 of the act.

This Circular replaces Circulars 2037, 2039, 2044, 2053, 2065, and those portions of Circulars 2060 and 2072 relating to 43 CFR Part 192.

GPO 931403

BUREAU OF LAND MANAGEMENT
UNITED STATES DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT
UNITED STATES DEPARTMENT OF THE INTERIOR

Repl. by C-2139

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular No. 2079]

PART 192—OIL AND GAS LEASES

Description of Lands in Offer

Section 192.42a(c) is amended to read as follows:

§ 192.42a Description of lands in offer.

* * * * *

(c) When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, must, except as provided below, include only entire sections described according to the section, township, and range shown on the approved protracted surveys.

(1) An offer may include less than an entire protracted section where only a portion of such a section is available for lease. In such case the offer must describe all the available lands by subdivisional parts in the same manner as provided in paragraph (a) of this section for officially surveyed lands. If this is not feasible, as e.g., in the case of an irregular section, the offer must describe the entire section and contain a statement that it shall be deemed to include all of the land in the described section which is available for lease.

STEWART L. UDALL,
Secretary of the Interior.

MAY 1, 1962.

[F.R. Doc. 62-4408; Filed, May 7, 1962; 8:46 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER H—GRAZING

[Circular 2080]

PART 160—GRAZING LEASES

Miscellaneous Amendments

1. The caption of § 160.14 is amended and a new paragraph (e) is provided as follows:

§ 160.14 Rentals; schedule of grazing fees; billing notices; effects of failure to pay; crossing permits.

* * * * *

(e) *Crossing permits.* Upon application filed with the authorized officer by any person showing the necessity for crossing the Federal land with livestock for proper and lawful purposes, a crossing permit may be issued to him at a charge, payable in advance, of one cent per head per day for cattle, two cents per head per day for horses, and one-fifth cent per head per day for sheep and goats. A minimum charge of $10 will be made for each crossing permit, except that no fee will be charged where the trail to be used is so limited and defined that no substantial amount of forage will be consumed in transit.

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2. Sections 160.22 and 160.23 are renumbered § 160.23 and § 160.24, respectively, and a new § 160.22 is added as follows:

§ 160.22 Trespass.

(a) Grazing livestock upon, allowing livestock to drift and graze on, or driving livestock across lands that are subject to lease or permit under the provisions of this Part or within a stock driveway, without a lease or other authorization from the Bureau of Land Management, is prohibited and constitutes trespass. Trespassers will be liable in damages to the United States for the forage consumed and for injury to Federal property, and may be subject to civil and criminal prosecution for such unlawful acts.

(b) A lessee who grazes livestock in violation of the terms and conditions of his lease by exceeding numbers specified, or by allowing the livestock to be on Federal land in an area or at a time different from that designated shall be in default and shall be subject to the provisions of § 160.19. In addition he may be subject to trespass action in accordance with the practices and procedures indicated in § 161.12 (a), (c) (1), (2), (3), (4), (d), and (g) of this chapter, modified so far as practicable and necessary to include Federal land outside of established grazing districts.

(c) When the alleged trespasser is not a lessee of lands under the regulations of this Part, the signing officer may take action against the trespasser in accordance with the practices and procedures in § 161.12 (a), (c) (1), (2), (3), (4), (d), and (g) of this chapter modified so far as practicable and necessary to include lands subject to lease under the provisions of this Part or within a stock driveway.

STEWART L. UDALL,
Secretary of the Interior.

MAY 4, 1962.

[F.R. Doc. 62-4574; Filed, May 10, 1962; 8:46 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2081]

PART 192—OIL AND GAS LEASES

PART 200—MINERAL DEPOSITS IN ACQUIRED LANDS AND UNDER RIGHTS-OF-WAY

Miscellaneous Amendments

1. Paragraph (j) of § 192.42 is amended to read as follows:

§ 192.42 Offer to lease, and issuance of lease.

* * * * *

(j) If any of the land described in item 2 of the offer is open to oil and gas filing when the offer is filed but is omitted from the lease for any reason and thereafter becomes available for leasing to the offeror, the original lease will be amended to include the omitted land unless, before the issuance of the amendment, the land office receives a withdrawal of the offer with respect to such land or an election to receive a separate lease in lieu of an amendment. Such election shall consist of a signed statement by the offeror asking for a separate lease accompanied by a new offer on the required form describing the remaining lands in his original offer, executed pursuant to this section. The new offer will have the same priority as the old offer. It need not be accompanied by the filing fee. The rental payment held on the original offer will be applied to the new offer. The rental and the lease term for the land added by such an amendment shall be the same as if the land had been included in the original lease when it was issued. If a separate lease is issued, it will be dated in accordance with § 192.40a.

2. Paragraph (a) of § 192.100 is amended to read as follows:

§ 192.100 Amount of bonds required of lessee.

(a) The successful bidder for a competitive lease prior to the issuance of the lease must furnish a corporate surety bond in the sum of at least double the amount of the $2 per acre annual rental but in no case less than $1,000 nor more than $10,000 conditioned on compliance with all the terms of the lease, and such a bond also must be filed when all or any part of the land in a lease issued noncompetitively is included within the limits of a known geologic structure of a producing oil or gas field.

3. Section 192.143 is amended to read as follows:

§ 192.143 Effect of assignment of particular tracts or undivided interests therein.

An assignment of a definitely described portion of the lands in a lease segregates the assigned and the retained portions into separate and distinct leases. An assignment of an undivided interest either in the entire leasehold or in any definitely described portion thereof shall not segregate or have the effect of segregating the lease into separate or distinct leases.

4. Section 200.4 is amended to read as follows:

§ 200.4 Other regulations applicable; lease forms, applications, and offers.

Except as otherwise specifically provided in §§ 200.1 to 200.10 inclusive, the regulations prescribed under the mineral leasing laws, and contained in Parts 191 to 198, inclusive, of this chapter, shall govern the disposal and development of minerals under the act to the extent that they are not inconsistent with the provisions of the act. All oil and gas leases for existing interest on acquired lands whether the Government's interest be full or fractional shall be issued on Form 4–1196. Leases of future interest and fractional future interest shall be issued on Form 4–1097.

5. Section 200.8 is amended to read as follows:

§ 200.8 Offer to lease and issuance of lease.

(a) To obtain a noncompetitive oil and gas lease of an existing mineral interest whether the Government's interest be whole or fractional, an offer to lease must be made on Form 4–1196, "Offer to Lease and Lease for Oil and Gas; Noncompetitive Acquired Lands" or unofficial copies of that form in current use: *Provided*, That the copies are exact reproductions of one page of both sides of the official approved one-page form and are without additions, omissions or other changes or advertising. Form 4–1196, or a valid reproduction, will also constitute the lease, when signed by the authorized signing officer of the Bureau of Land Management.

(b) Seven copies of Form 4–1196 or valid reproduction thereof, for each offer to lease shall be filed in the land office for the State or land district in which the land is situated, or for land or deposits in States for which there are no land offices, with the Bureau of Land Management, Washington 25, D.C., except that offers for lands or deposits in North or South Dakota, must be filed in the land office at Billings, Montana; for lands or deposits in Nebraska or Kansas in the land office at Cheyenne, Wyoming; and for lands or deposits in Oklahoma and Texas in the land office at Santa Fe, New Mexico. If less than seven copies are filed, the offer will not be rejected, if not otherwise subject to rejection, until 30 days from filing have elapsed and if during that period the remaining required copies are filed, the offeror's priority will date from the date of the first filing. If the additional copies are not filed within the 30-day period, the offer will be rejected and returned and will afford no priority to the offeror. Should the additional copies be filed after the 30-day period but before the offer has been rejected, the offeror will have a priority as of the later filing date. For the purpose of this part an offer will be considered file when it is received in the proper office during business hours.

(c) Each offer must describe the lands as required by § 200.5(a) and may not include more than 2,560 acres except where the rule of approximation applies. That portion of § 192.42(d) of this chapter providing that an offer may not be made for less than 640 acres is not applicable to acquired lands lease offers. Each offer should specify, if possible, the name of the governmental agency having jurisdiction over the surface of the land and also the unit of the project involved.

(d) Except as provided in § 192.42 (g)(2) of this chapter an offer will be

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rejected and returned to the offeror and will afford the applicant no priority if the offer is defective for the reasons set forth in § 192.42 (g) (1), (iii), (iv), and (v), of this chapter or if:

(1) The land description does not comply with the requirements of § 200.5 (a) or the lands are not entirely within an area of six miles square or an area not exceeding six surveyed sections in length or width.

(2) The total acreage exceeds 2,560 acres, except where the rule of approximation applies.

(3) Less than seven copies of the offer are filed and the copies lacking are not received in the land office before the expiration of 30 days from the date of receipt of the copies first filed.

(4) There is noncompliance with item 5(a) of the Special Instructions.

(e) Leases for a whole or fractional future interest will be issued on Form 4-1097. Such leases will be sent to applicant or offeror for execution and return to the proper land office for execution by the appropriate officer. Thereafter; an executed copy will be mailed to lessee.

§ 200.11 [Revocation]

6. Section 200.11 is revoked in its entirety.

STEWART L. UDALL,
Secretary of the Interior.

JUNE 11, 1962.

[F.R. Doc. 62-5874; Filed, June 15, 1962; 8:47 a.m.]

Repl. by EC-2321

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular No. 2082]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES, AND LICENSES

PART 203—NATIVE ASPHALT SOLID AND SEMISOLID BITUMEN AND BITUMINOUS ROCK LEASES

Miscellaneous Amendments

1. Section 191.1 is amended to read as follows:

§ 191.1 Purpose of the leasing acts.

The act of February 25, 1920 (41 Stat. 437; 30 U.S.C., 181 et seq.), as amended and supplemented, including the amendatory act of August 8, 1946 (60 Stat. 950; 30 U.S.C., sec. 181 et seq.) and the act of September 2, 1960 (74 Stat. 781; 30 U.S.C., sec. 181 et seq.), the act of February 7, 1927 (44 Stat. 1057; 30 U.S.C., 281–287) and the act of April 17, 1926 (44 Stat. 301; 30 U.S.C., 271–276) as amended, hereinafter called "the act", provide for the leasing of oil and gas, coal, potassium, sodium, phosphate, and oil shale, native asphalt, solid and semisolid bitumen, and bituminous rock including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried, and lands containing such deposits owned by the United States in the public domain and deposits of sulphur and the public lands containing such deposits in the States of Louisiana and New Mexico, except as stated in § 191.2.

2. A new Part 203 is added to Title 43 Code of Federal Regulations to read as follows:

GENERAL

Sec.
203.1 Statutory authority.
203.2 Application for lease.
203.3 Rentals, royalties and minimum royalties.
203.4 Term of lease.
203.5 Multiple use of lands.
203.6 Form of lease.
203.7 Lease bond.

GENERAL

§ 203.1 Statutory authority.

The Act of February 25, 1920 (41 Stat. 437; 30 U.S.C., sec. 181), as amended by the act of September 2, 1960 (74 Stat. 781; 30 U.S.C. secs. 181, 241) provides for the leasing of native asphalt, solid and semisolid bitumen and bituminous rock (including oil impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried).

§ 203.2 Application for lease.

(a) An applicant must give his name and address and citizenship qualifications in the manner prescribed in § 191.3 of this chapter.

(b) Lands included in an application for a lease must be described in the same manner as specified in § 192.42a of this chapter. No more than 7,680 acres may be acquired or held under lease by any person, association or corporation in any one State irrespective of the number of leases.

(c) Each application must be filed in the proper land office as set forth in § 192.42 of this chapter and must be accompanied by a filing fee of $10 which will not be returnable.

(d) All leases will be issued through competitive bidding only in the same manner as that provided for in §§ 192.51 to 192.53 of this chapter.

§ 203.3 Rentals, royalties and minimum royalties.

The minimum royalty and royalty rates will be fixed and determined prior to the offering of the lands for lease and the issuance of the lease to the successful bidder. Such rates will be set out in the notice of publication inviting bids and will be determined on an individual case basis. The annual rental will be 50 cents per acre or fraction thereof payable annually in advance.

§ 203.4 Term of lease.

All leases shall be for a term of 10 years and so long thereafter as the lessee complies with the terms and conditions of the lease.

§ 203.5 Multiple use of lands.

In accordance with, and in furtherance of the principle of the multiple use of the public lands, a lease for the mineral deposits enumerated in this Part may be issued, notwithstanding the existence of any lease covering the same lands issued under any other provision of the act.

§ 203.6 Form of lease.

The form of lease will be substantially the same as that set forth in 47 L.D. 426–429. The right is reserved to insert in the lease such other terms and conditions as may be deemed necessary for the protection of the surface of the land, its resources and any other lessees of the lands.

§ 203.7 Lease bond.

Prior to the issuance of the lease and as a condition therefor, the successful bidder must furnish a corporate surety bond in an amount to be set forth in the invitation to bid. The right is reserved to require an increase of the amount of the bond before or after the issuance of the lease when deemed proper by the authorized officer.

STEWART L. UDALL,
Secretary of the Interior.

JUNE 27, 1962.

[F.R. Doc. 62–6482; Filed, July 3, 1962; 8:48 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER G—EXCHANGES

[Circular 2083]

PART 149—EXCHANGES FOR THE CONSOLIDATION OR EXTENSIONS OF INDIAN RESERVATIONS OR INDIAN HOLDINGS

Statutory Authority; Criteria for Approval of Exchanges

1. Section 149.23 is amended to read as follows:

§ 149.23 Statutory authority.

(a) Section 2 of the act of August 13, 1949 (63 Stat. 605; 25 U.S.C. 622), authorizes the Secretary of the Interior to exchange for any lands or interests therein, including improvements and water rights, situated within the area described in section I of the notice dated March 25, 1950 (15 F.R. 1852), any lands or interests therein, including improvements and water rights, situated within the boundaries of the area described in said section I, or within the public domain area described in section II of said notice, or within any public domain in New Mexico.

(b) Section 10(a) of Public Law 87-231, act of September 14, 1961 (75 Stat. 500; 25 U.S.C. 624), provides that the Secretary of the Interior may acquire, within the Pueblo land consolidation areas, any lands or interests therein, including improvements and water rights, and in exchange therefor, may convey not to exceed an equal value of unappropriated public lands within the State of New Mexico, or, with the consent of the Pueblo authorities, any Pueblo tribal lands or interest therein, including improvements and water rights.

(1) The Pueblo land consolidation areas include any lands, acquisition of which would tend to consolidate Pueblo tribal lands held by a Pueblo at the time of such acquisition.

2. Paragraph (a) of § 149.24 is amended to read as follows:

§ 149.24 Criteria for approval of exchanges.

* * * * *

(a) The selected lands or interests do not exceed the value of the offered lands or interests.

STEWART L. UDALL,
Secretary of the Interior.

JULY 9, 1962.

[F.R. Doc. 62-6889; Filed, July 13, 1962; 8:52 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER S—RIGHTS-OF-WAY

[Circular No. 2084]

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON THE OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

Subpart G—Rights-of-Way and Material Sites for Highways Under Title 23, United States Code [25]

Sec.
244.54 Statutory authority.
244.55 Application; grants.
244.56 Additional rights-of-way within highway rights-of-way.

AUTHORITY: §§ 244.54 to 244.56 issued under 5 U.S.C. 22; 43 U.S.C. 2, 1201, 1371.

§ 244.54 Statutory authority.

(a) Title 23, United States Code, section 107, paragraph (d), provides that whenever rights-of-way, including control of access, on the National System of Interstate and Defense Highways are required over lands or interests in lands owned by the United States, the Secretary of Commerce may make such arrangements with the agency having jurisdiction over such lands as may be necessary to give the State or other person constructing the projects on such lands adequate rights-of-way and control of access thereto from adjoining lands. It directs any such agency to cooperate with the Secretary of Commerce in this connection.

(b) Title 23, United States Code, section 317, provides that:

(1) If the Secretary of Commerce determines that any part of the lands or interests in lands owned by the United States is reasonably necessary for the right-of-way of any highway constructed on the Federal-aid primary system, the Federal-aid secondary system and the National System of Interstate and Defense Highways, or under Title 23, United States Code, Chapter 2, or as a source of materials for the construction or maintenance of any such highway adjacent to such lands or interests in lands, the Secretary of Commerce shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which it is desired to appropriate.

(2) If within a period of four months after such filing the Secretary of such Department shall not have certified to the Secretary of Commerce that the proposed appropriation of such land or material is contrary to the public interest or inconsistent with the purposes for which such lands or materials have been reserved, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such lands and materials may be appropriated and transferred to the State highway department, or its nominee, for such purposes and subject to the conditions so specified.[26]

(3) If at any time the need for any such lands or materials for such purposes shall no longer exist, notice of the fact shall be given by the State highway department to the Secretary of Commerce and such lands or materials shall immediately revert to the control of the Secretary of the Department from which they had been appropriated.[27]

§ 244.55 Application; grants.

(a) Except where an application involves lands wholly within an Indian reservation, applications for rights-of-way and material sites under Title 23, United States Code, for lands under the jurisdiction of the Department of the Interior, with the maps required by paragraph (a) of § 244.6, shall be filed by the appropriate State highway department in the manner prescribed by § 244.3 of this part. Applications for lands wholly within an Indian reservation shall be filed in the Office of the superintendent of the Bureau of Indian Affairs agency which has jurisdiction over the lands, or for lands for which there is no agency, in the office of the Area Director who has jurisdiction over the lands. Applications for lands outside of the jurisdiction of the Department of the Interior shall be filed pursuant to the rules or regulations of the Department or agency having jurisdiction over the lands.[28]

(b) The appropriate State highway department will forward a copy of each application and map filed with the Department of the Interior to the authorized officer of the Bureau of Public

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[25] In addition to the material under this heading, the general regulations under Subpart A of this part should be consulted.

[26] By decision of the Secretary, Nevada Department of Highways, A.24151, September 1945, it was held that the law imports discretion and indicates no intent to vest in the State a right at the end of the four months' period without further action by the Department having jurisdiction. It was held further that the interest transferred under the statute is merely a right-of-way or right to take materials and that the Government may reserve the right to dispose of leasable minerals.

[27] Notice by the State highway departments, that the need for the land or material no longer exists may be given directly to the Bureau which granted the rights.

[28] When the lands involved are under the jurisdiction of the Department of the Interior an applicant will be expected, at the earliest possible date prior to the filing of an application, to consult with the local officials of the Bureau or Office having jurisdiction over the lands to ascertain whether or not the use of appropriation of the lands for right-of-way purposes is consistent with the management program and to agree to such measures as may be necessary to maintain program values. Failure to do so may lead to an unresolvable conflict of interest and necessitate disallowance of the application.

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Roads for a determination whether the lands and interests in lands are necessary for the purposes of Title 23, United States Code.

(c) After receipt of such determination that the lands or interests in lands under application are reasonably necessary for the purposes of Title 23, United States Code, the authorized officer of the Bureau of Land Management will notify the applicant and the authorized officer of the Bureau of Public Roads either (1) that the approval of the application would be contrary to the public interest or inconsistent with the purposes for which the lands or materials have been reserved or (2) that he proposes to grant the right-of-way under the regulations of this part, subject to said regulations and to such conditions which he indicates in his notice.

(d) Grants of rights-of-way under Title 23, United States Code, by the authorized officer of the Bureau of Land Management will be made to the appropriate State highway department or to its nominee and based upon considerations of adequate protection and utilization of Federal lands and interests in lands will be subject to (1) all the pertinent regulations of this part except those which the authorized officer, upon formal request of the applicant may modify or dispense with, in whole or in part, upon a finding that it is in the public interest and in conformity with the purposes of Title 23, United States Code, and (2) any conditions which he deems necessary. Grants of highway rights-of-way under this subpart may include an appropriation and release to the State or its nominee of all rights of the United States, as owner of underlying and abutting lands, to cross over or gain access to the highway from its lands crossed by or abutting the right-of-way, subject to such terms and conditions and for such duration as the authorized officer of the Bureau of Land Management deems appropriate.

§ 244.56 Additional rights-of-way within highway rights-of-way.

(a) No application under the regulations of this part is required for a right-of-way within the limits of a highway right-of-way granted pursuant to Title 23, United States Code, for facilities usual to a highway, except (1) where terms of the grant or a provision of law specifically requires the filing of an application for a right-of-way, (2) where the right-of-way is for electric transmission facilities which are designed for operation at a nominal voltage of 33 KV or above or for conversion to such operation, or (3) where the right-of-way is for oil or gas pipelines which are part of a pipeline crossing other public lands, or if not part of such a pipeline, which are more than two miles long. When an application is not required under the provisions of this paragraph, qualified persons may appropriate rights-of-way for such usual highway facilities with the consent of the holder of the highway right-of-way, which holder will be responsible for compliance with § 244.9 in connection with the construction and maintenance of such facilities.

(b) Except as modified by paragraph (a) of this section, rights-of-way within the limits of a highway right-of-way granted pursuant to Title 23, United States Code, and applications for such rights-of-way, are subject to all the regulations of this part pertaining to such rights-of-way.

JOHN A. CARVER, JR.,
Acting Secretary of the Interior.

JULY 17, 1962.

[F.R. Doc. 62-7129; Filed, July 20, 1962; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular [illegible]]

SERVICE FEES AND CHARGES

Miscellaneous Amendments to Chapter

ART 61—CERTIFICATES AND SCRIP

§ 61.17 [Revocation]

1. Section 61.16 is revoked.

Section 61.17 is renumbered § 61.16 and revised to read as follows:

§ 61.16 Entry and final certificate.

The application and proof filed therewith will be carefully examined and, if all be found regular, the application will be allowed and final certificate issued upon the payment of a service charge of $10 and in the absence of objections shown by the records.

2. Section 61.18 is renumbered § 61.17 and revised to read as follows:

§ 61.17 Lands which may and may not be located by scrip.

No scrip or land rights can be located [illegible] soldier's additional homestead [illegible].

PART [illegible]—HOMESTEADS

3. Section [illegible] is revised to change the heading and to read as follows:

§ 65.[illegible] Payments required at the time of entry and proof; form of remittance.

(a) When a homesteader applies to make entry he must pay an application nonrefundable service charge of $25. In addition, he must pay with his final proof, a nonrefundable service charge of $25. A successful contestant for the lands, pursuant to the act of May 14, 1880 (21 Stat. 141; 43 U.S.C. 185), as amended, must pay, as a nonrefundable contestant service charge, an additional $10. On all final proofs made before the manager or before any other officer authorized to take proofs, the claimant must pay to the manager the costs of reducing the testimony to writing as determined by the manager. No proof shall be accepted or approved until all charges have been paid.

(b) Remittances other than cash or currency are to be made payable to the Bureau of Land Management. Checks or drafts are accepted subject to collection and final payment without cost to the government.

PART 106—[illegible]

4. Section 106.15 is added reading as follows:

§ 106.15 Reducing testimony to writing.

On all final proofs made before the manager, or before any other officer authorized to take proofs, the claimant must pay to the manager the costs of reducing the testimony to writing, as determined by the manager. No proof shall be accepted or approved until such payment has been made.

PART 132—SOLDIERS' ADDITIONAL HOMESTEAD RIGHTS

5. Section 132.13 is revised to read as follows:

§ 132.13 Allowance of application and issuance of final certificate.

A soldier's additional application does not segregate the land nor prohibit the filing of other applications for such land until after its allowance. The entry and final certificate should bear the same date. The manager, after collecting a service charge of $10, will issue final certificate.

PART 166—ORIGINAL, ADDITIONAL, SECOND, AND ADJOINING FARM HOMESTEADS, AUTHORIZED BY THE GENERAL PROVISIONS OF THE HOMESTEAD LAWS

§ 166.1 [Amendment]

6. Paragraphs (a), (b), and (c) of § 166.1 are revoked in their entirety.

7. The heading and present text of § 166.8 are amended to read as follows:

§ 166.8 Payments required at the time of entry and proof; form of remittance.

(a) When a homesteader applies to make entry he must pay a nonrefundable application service charge of $25. In addition, he must pay with his final proof, a nonrefundable service charge of $25. A successful contestant for the lands, pursuant to the act of May 14, 1880 (21 Stat. 141; 43 U.S.C. 185), as amended, must pay, as a nonrefundable service charge, an additional $10, which is not returnable. On all final proofs made before the manager, or before any other officer authorized to take proofs, the claimant must pay to the manager the costs of reducing the testimony to writing, as determined by the manager. No proof shall be accepted or approved until all charges have been paid.

(b) Remittances other than cash or currency are to be made payable to the Bureau of Land Management. Checks or drafts are accepted subject to collection and final payment without cost to the government.

PART 167—ENLARGED HOMESTEADS

8. The heading and present text of § 167.4 are amended to read as follows:

§ 167.4 Compactness; payments, forms of remittance.

(a) A tract included in an entry under the Enlarged Homestead Acts or in any entry under the general law, and an additional entry under said acts, should be in compact form, and such claim may not be permitted to entirely surround a subdivision of unappropriated lands subject to entry under said acts.

The original entry under the Enlarged Homestead Acts may not exceed one and one-half miles in extreme length (43 U.S.C. 218).

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Roads for a determination whether the lands and interests in lands are necessary for the purposes of Title 23, United States Code.

(c) After receipt of such determination that the lands or interests in lands under application are reasonably necessary for the purposes of Title 23, United States Code, the authorized officer of the Bureau of Land Management will notify the applicant and the authorized officer of the Bureau of Public Roads either (1) that the approval of the application would be contrary to the public interest or inconsistent with the purposes for which the lands or materials have been reserved or (2) that he proposes to grant the right-of-way under the regulations of this part, subject to said regulations and to such conditions which he indicates in the notice.

(d) Grants of rights-of-way under Title 23, United States Code, by the authorized officer of the Bureau of Land Management will be made to the appropriate State highway department or to its nominee and [illegible] appropriation [illegible] of Federal lands and interests in lands will be subject to all the pertinent regulations of this part except those which are inconsistent [illegible] upon formal request of the applicant may modify or [illegible] in whole or in part, [illegible] that it is in the public interest and is consistent with the purposes of Title 23, United States Code, [illegible] highway [illegible] include an appropriation [illegible] the lands or [illegible] of the United States [illegible] adjoining lands [illegible] to the highway [illegible] occupied by or abutting the right-of-way, subject to such terms and conditions and for such duration as the authorized officer of the Bureau of Land Management deems appropriate.

§ 244.56 Additional rights-of-way within highway rights-of-way.

(a) No application under the regulations of this part is required for a right-of-way within the limits of a highway right-of-way granted pursuant to Title 23, United States Code, for facilities usual to a highway, except: (1) where the terms of the grant or a provision of law specifically require the filing of an application for a right-of-way, (2) where the right-of-way is for electric transmission facilities which are designed for operation at a nominal voltage of 33 KV or above or for conversion to such operation, or (3) where the right-of-way is for oil or gas pipelines which are part of a pipeline crossing other public lands, or if not part of such a pipeline which are more than two miles long. Where an application is not required under the provisions of this paragraph, [illegible] may [illegible] rights-of-way for such usual highway facilities with the [illegible] of the highway right-of-way, which [illegible] responsible for compliance [illegible] in connection with the [illegible] and maintenance of such facilities.

(b) [illegible] by paragraph (a) [illegible] rights-of-way within the limits of a highway right-of-way granted pursuant to Title 23, United States Code, and applications for such rights-of-way, are subject to all the provisions of this part pertinent to such rights-of-way.

John A. Carver, Jr.,
Assistant Secretary of the Interior.

June [illegible], 1962.

[F.R. Doc. [illegible]; Filed, July [illegible], 1962; [illegible]]

GPO [illegible]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2085]

SERVICE FEES AND CHARGES

Miscellaneous Amendments to Chapter

PART 61—CERTIFICATES AND SCRIP

§ 61.16 [Revocation]

1. Section 61.16 is revoked.

Section 61.17 is renumbered § 61.16 and revised to read as follows:

§ 61.16 Entry and final certificate.

The application and proof filed therewith will be carefully examined and, if all be found regular, the application will be allowed and final certificate issued upon the payment of a service charge of $25 and in the absence of objections shown by the records.

2. Section 61.18 is renumbered § 61.17 and revised to read as follows:

§ 61.17 Scrip which may and may not be located in Alaska.

No scrip or lieu rights can be located in Alaska except soldier's additional homestead rights.

PART 65—HOMESTEADS

3. Section 65.24 is revised to change the heading and to read as follows:

§ 65.24 Payments required at the time of entry and proof; form of remittances.

(a) When a homesteader applies to make entry he must pay an application nonrefundable service charge of $25. In addition, he must pay with his final proof, a nonrefundable service charge of $25. A successful contestant for the lands, pursuant to the Act of May 14, 1880 (21 Stat. 143; 43 U.S.C. 185), as amended, must pay, as a nonrefundable cancellation service charge, an additional $10. On all final proofs made before the manager, or before any other officer authorized to take proofs, the claimant must pay to the manager the costs of reducing the testimony to writing, as determined by the manager. No proof shall be accepted or approved until all charges have been paid.

(b) Remittances other than cash or currency are to be made payable to the Bureau of Land Management. Checks or drafts are accepted subject to collection and final payment without cost to the government.

PART 106—PROOFS

4. Section 106.15 is added reading as follows:

§ 106.15 Reducing testimony to writing.

On all final proofs made before the manager, or before any other officer authorized to take proofs, the claimant must pay to the manager the costs of reducing the testimony to writing, as determined by the manager. No proof shall be accepted or approved until such payment has been made.

PART 132—SOLDIERS' ADDITIONAL HOMESTEAD RIGHTS

5. Section 132.13 is revised to read as follows:

§ 132.13 Allowance of application and issuance of final certificate.

A soldier's additional application does not segregate the land nor prohibit the filing of other applications for such land until after its allowance. The entry and final certificate should bear the same date. The manager, after collecting a service charge of $25, will issue final certificate.

PART 166—ORIGINAL, ADDITIONAL, SECOND, AND ADJOINING FARM HOMESTEADS, AUTHORIZED BY THE GENERAL PROVISIONS OF THE HOMESTEAD LAWS

§ 166.1 [Amendment]

6. Paragraphs (c), (d), and (e) of § 166.1 are revoked in their entirety.

7. The heading and present text of § 166.8 are amended to read as follows:

§ 166.8 Payments required at the time of entry and proof; form of remittance.

(a) When a homesteader applies to make entry he must pay a nonrefundable application service charge of $25. In addition, he must pay with his final proof, a nonrefundable service charge of $25. A successful contestant for the lands, pursuant to the act of May 14, 1880 (21 Stat. 141; 43 U.S.C. 185), as amended, must pay, as a cancellation service charge, an additional $10, which is not returnable. On all final proofs made before the manager, or before any other officer authorized to take proofs, the claimant must pay to the manager the costs of reducing the testimony to writing, as determined by the manager. No proof shall be accepted or approved until all charges have been paid.

(b) Remittances other than cash or currency are to be made payable to the Bureau of Land Management. Checks or drafts are accepted subject to collection and final payment without cost to the government.

PART 167—ENLARGED HOMESTEADS

8. The heading and present text of § 167.4 are amended to read as follows:

§ 167.4 Compactness; payments, forms of remittances.

(a) A tract included in an entry under the Enlarged Homestead Acts or in any entry under the general law, and an additional entry under said acts, should be in compact form, and such claim may not be permitted to entirely surround a subdivision of unappropriated lands subject to entry under said acts.[3]

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[3] An original entry under the Enlarged Homestead Acts may not exceed one and one-half miles in extreme length (47 L.D. 370).

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(b) When a homesteader applies to make entry, he must pay a nonrefundable application service charge of $25. In addition, he must pay with his final proof, a nonrefundable service charge of $25. A successful contestant for the lands pursuant to the act of May 14, 1880 (21 Stat. 141; 43 U.S.C. 185), as amended, must pay, as a nonrefundable cancellation service charge, an additional $10. On all final proofs made before the manager, or before any other officer authorized to take proofs, the claimant must pay to the manager the costs of reducing the testimony to writing, as determined by the manager. No proof can be accepted or approved until all charges have been paid.

(c) Remittances other than cash or currency are to be made payable to the Bureau of Land Management. Checks or drafts are accepted subject to collection and final payment without cost to the government.

PART 169—KINKAID HOMESTEADS

9. The heading and present text of § 169.10 are amended to read as follows:

§ 169.10 Payments required at the time of entry and proof, form of remittances.

(a) When a homesteader applies to make entry, he must pay a nonrefundable application service charge of $25. In addition, he must pay with his final proof, a nonrefundable service charge of $25. A successful contestant for the lands, pursuant to the act of May 14, 1880 (21 Stat. 141; 43 U.S.C. 185), as amended, must pay, as a nonrefundable cancellation service charge, an additional $10. On all final proofs made before the manager, or before any other officer authorized to take proofs, the claimant must pay to the manager the costs of reducing the testimony to writing, as determined by the manager. No proof shall be accepted or approved until all charges have been paid.

(b) Remittances other than cash or currency are to be made payable to the Bureau of Land Management. Checks or drafts are accepted subject to collection and final payment without cost to the government.

PART 181—VETERANS', SOLDIERS' AND SAILORS' RIGHTS

10. Paragraph (a) of § 181.6 is revised to read as follows:

§ 181.6 Soldiers' and sailors' declaratory statements.

(a) "Veterans of other wars" may initiate a homestead entry by filing a soldiers' and sailors' declaratory statement. Veterans who served between May 9, 1916, and March 3, 1921, must file their statements in person on Form 4-546. Others may file either on Form 4-545 through an agent acting under power of attorney, or on Form 4-546 when filing in person. Such statements must be accompanied by a nonrefundable application service charge of $10.

PART 185—GENERAL MINING REGULATIONS

11. Paragraph (b) of § 185.36 is amended to read as follows:

§ 185.36 Mineral locations in reclamation withdrawals.

* * * * *

(b) Application to open lands to location under the act may be filed by a person, association or corporation qualified to locate and purchase claims under the general mining laws. The application must be executed in duplicate and filed in the land office of the district in which the lands are situated; must describe the land the applicant desires to locate, by legal subdivision if surveyed, or by metes and bounds if unsurveyed, and must set out the facts upon which is based the knowledge or belief that the lands contain valuable mineral deposits, giving such detail as the applicant may be able to furnish as to the nature of the formation, kind and character of the mineral deposits. Each application shall be accompanied by a $10 nonrefundable service charge.

12. The heading and present text of § 185.84 are amended to read as follows:

§ 185.84 Service charge.

The service charge payable to the Bureau of Land Management for filing and acting upon applications for mineral-land patents is $25 to be paid by the applicant for patent at the time of filing, and a sum of $10 is payable by an adverse claimant at the time of filing his adverse claim. These charges are nonrefundable.

13. The present text of § 185.86 is designated as paragraph (a) and a new paragraph (b) added as follows:

§ 185.86 Protest against mineral applications.

* * * * *

(b) Such protest filed by any party, other than a Federal agency, must be accompanied by a $10 nonrefundable service charge.

14. Paragraph (a) of § 185.96 is amended to read as follows:

§ 185.96 Filing of petition for deferment, *contents*.

(a) In order to obtain temporary deferment, the claimant must file with the manager of the land office for the district in which the lands are situated, a petition in duplicate requesting such deferment. No particular form of petition is required, but the applicant must attach to one copy thereof a copy of the notice to the public required by the act which shows that it has been filed or recorded in the office in which the notices or certificates of location were filed or recorded. The petition and duplicate should be signed by at least one of the owners of each of the locations involved, shall give the names of the claims, dates of location, and the date of the beginning of the one-year period for which deferment is requested. Each petition shall be accompanied by a $10 nonrefundable service charge.

PART 186—MULTIPLE DEVELOPMENT OF MINERAL DEPOSITS UNDER THE MINING AND MINERAL LEASING LAWS

15. A new subparagraph (4) is added to paragraph (c) of § 186.10 reading as follows:

§ 186.10 Request for publication of notice of Leasing Act filing; supporting instruments.

(c) * * *

(4) A nonrefundable $10 remittance to cover service charge.

PART 192—OIL AND GAS LEASES

16. Section 192.60 is amended to read as follows:

§ 192.60 Application to exchange lease for a new lease.

Any lease which issued for a term of 20 years, or any renewal thereof, or which issued in exchange for a 20-year lease prior to August 8, 1946, may be exchanged for a new lease. Such new lease will be issued for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities and will contain the rental and royalty rates prescribed in §§ 192.80, 192.81, and 192.82. An application to exchange a lease for a new lease should be filed in triplicate by the lessee with the manager of the appropriate land office, must show full compliance by the applicant with the terms of the lease and applicable regulations, and must be accompanied by a nonrefundable filing fee of $10.

17. Paragraph (a) of § 192.61 is amended to read as follows:

§ 192.61 Application for renewal.

(a) Twenty-year leases or renewals thereof may be renewed for successive terms of 10 years at the rental and royalty rates specified for such renewal leases in §§ 192.80, 192.81, and 192.82. An application to renew should be filed in triplicate, in the proper office as prescribed in § 192.42(b), at least 90 days, but not more than six months, prior to the expiration of its term, and must be accompanied by a nonrefundable filing fee of $10. Such application should be made by the record title holder or holders of the lease and may be joined in or consented to by the operator of record. The application should show whether all moneys due the United States have been paid and whether operations under the lease have been conducted in accordance with the regulations of the Department.

18. Part 216 is revised in its entirety to read as follows:

PART 216—PAYMENTS

Sec.
216.1 Amount of payments.
216.2 Forms of remittances.

AUTHORITY: §§ 216.1 and 216.2 issued under R.S. 2478; 43 U.S.C. 1201.

§ 216.1 Amount of payments.

(a) The amount of payments required in connection with the processing of any application, sale, entry, lease, permit, or other transaction governed by the regulations in this chapter are set forth in applicable regulations.

(b) The amount of payments required for copies and abstracts of records, including plats and diagrams showing the status of lands, are determined as provided in Part 2 of this title.

§ 216.2 Forms of remittances.

(a) Subject to the condition set forth in paragraph (b) of this section, forms of remittances that will be accepted in payment of fees, rentals, purchase price, and other charges required by the regulations in this Chapter include cash and currency of the United States and checks, money orders, and bank drafts if they are made payable to the Bureau of Land Management. Checks or drafts are accepted subject to collection and final payment without cost to the Government.

(b) Personal checks are an acceptable form of remittance except where the regulations in this chapter specifically provide otherwise.

PART 234—RECLAMATION OF ARID LANDS IN NEVADA

19. The text of § 234.4 preceding the lettered paragraphs of that section, is amended to read as follows:

§ 234.4 Application.[1]

Any qualified applicant desiring to explore for water under the terms of this act should file with the manager of the land office of the district in which the land is situated, an application for permit, together with a corroborated statement as to the character of the land, and pay a nonrefundable application service fee of $75. The application should be filed in duplicate and cover the following points:

Paragraph (f) of § 234.11 is added to read as follows:

§ 234.11 Final proof.

* * * * *

(f) The claimant must pay to the manager a nonrefundable service charge of $25 and also the costs of reducing testimony to writing, as determined by the manager.

PART 240—PUBLIC LAND RECORDS

§§ 240.9, 240.11, 240.12 [Revocations]

20. Sections 240.9, 240.11, and 240.12 are revoked in their entirety.

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON THE OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

21. Section 244.30 and the text of § 244.31 preceding the lettered paragraphs of that section are revised to read as follows:

§ 244.30 Declaratory statement.

To apply for a reservoir site under §§ 244.29 to 244.37, the applicant must file with the manager a declaratory statement drawn in accordance with Form 7,[14] together with a nonrefundable application service fee of $10. No other application is necessary.

§ 244.31 Action on declaratory statements; size, location, and number of reservoir sites.

In acting upon these statements the following general rules will be applied:

PART 270—STATE GRANTS FOR EDUCATIONAL, INSTITUTIONAL, AND PARK PURPOSES

22. Paragraph (e) of § 270.3 and paragraph (b) of § 270.9 are revised to read as follows:

§ 270.3 Applications for selection.

* * * * *

(e) Applications for selection must be accompanied by a nonrefundable application service charge of $5.

§ 270.9 Applicable regulations.

* * * * *

(b) Section 270.3(c)(1) is modified to require reference to the appropriate granting act; § 270.3(c)(3) is modified to require a statement testifying to the nonmineral character of each smallest legal subdivision of the selected land; § 270.3(d)(2) is modified to permit as much as 6,400 acres in a single selection; § 270.3(e) is modified to require a nonrefundable application service fee of $10, and § 270.3(c)(2)(v) is modified to require a certificate that the selection and those pending, together with those approved, do not exceed the total amount granted for the stated purpose of the grant.

PART 273—RAILROAD GRANTS, ETC.

23. Sections 273.70 and 273.73 are revised to read as follows:

§ 273.70 Applications.

Application, and supporting evidence, must be filed by the carrier in the proper land office, accompanied by a nonrefundable application service charge of $10. The lands listed in any one application must be limited to those embraced in a single sale upon which the claim for patent is based. The application should state that it is filed under the railroad land grant act involved, properly cited, and subsection (b) of section 321, Part II, Title III of the Transportation Act of 1940 (54 Stat. 954). The application must be supported by a showing that the land is of the character which would pass under the grant involved, and was not by some superior or prior claim, withdrawal, reservation, or other reason, excluded from the operation of the grant. Full details of the alleged sale must be furnished, such as dates, the terms thereof, the estate involved, consideration, parties, amounts and dates of payments, made, and amounts due, if any, description of the land, and transfers of title. The use, occupancy, and cultivation of the land and the improvements placed thereon by the alleged purchaser should be described. All statements should be duly corroborated. Available documentary evidence, including the contract or deed, should be filed, which may be authenticated copies of the originals. An abstract of title may be necessary, dependent upon the circumstances of the particular case. No application for a patent under this act will be favorably considered unless it be shown that the alleged purchaser is entitled forthwith to the estate and interest transferred by such patent. Evidence of a recorded deed of conveyance from the carrier to the purchaser may be required. Where the company has on file an application in which the sold land is embraced, it need not file a new application, but may file a request for amendment of the pending application to come under the Transportation Act of 1940, together with the showing, supra, required as to the bona fide sale.

§ 273.73 Patents.

If all be found regular and in conformity with the governing law and regulations, patent shall be issued in the name of the grantee under the railroad grant, the carrier paying the costs of preparation and issuance of the patent. (R.S. 2478; 43 U.S.C. 1201)

STEWART L. UDALL,
Secretary of the Interior.

AUGUST 16, 1962.

[F.R. Doc. 62-8549; Filed, Aug. 24, 1962; 8:45 a.m.]

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[1] 18 U.S.C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

[14] See appendix for forms.

This Circular replaces Circular 1858

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2086]

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

PART 259—DISPOSAL OF TIMBER AND MINERAL RESOURCES

Miscellaneous Amendments

1. Section 115.16 is amended by the addition of a new paragraph designated (g) as follows:

§ 115.16 Definitions.

* * * * *

(g) "Logging unit" means a portion of the cutting area under contract clearly designated or marked by the authorized officer for the purpose of administering optional bonding and payment provisions of the timber sale contract. The total cutting area under contract may not be divided into less than two logging units.

2. Section 115.27 is amended to raise optional bonding limit to $2,500; establish $500 minimum bond on installment contracts valued from $500 to $2,500; delete the present paragraph (b) and substitute therefor provision for the optional cut against the performance bond; and provide for reducing bond below 20 percent of purchase price. As so amended § 115.27 reads as follows:

§ 115.27 Performance bonds.

(a) A minimum performance bond of not less than 20 percent of the total contract price will be required for all contracts of $2,500 or more. A minimum performance bond of not less than $500 will be required for all installment contracts less than $2,500. For cash sales less than $2,500, bond requirements, if any, will be in the discretion of the authorized officer. The performance bond may be:

(1) Bond of a corporate surety shown on the approved list issued by the United States Treasury Department and executed on an approved standard form; or

(2) Personal surety bond, executed on an approved standard form if the authorized officer determines the principals and bondsmen are capable of carrying out the terms of the contract; or

(3) Cash bond; or

(4) Negotiable securities of the United States.

(b) The authorized officer may allow the cutting of timber before payment of the second and subsequent installments as provided in this paragraph. The authorized officer shall designate logging units within the cutting area under contract and assign to them values solely for the purpose of increasing the amount of the performance bond and for payment. The purchaser shall increase the minimum performance bond required by paragraph (a) of this section by an amount equal to the value of the timber on each logging unit and shall obtain written approval of the authorized officer for the adjusted bond prior to cutting any timber on such unit. Cutting authorized in advance of payment shall be limited to one logging unit and the increased amount of the bond shall be used to assure payment for the timber on that unit. Upon payment for the timber on such unit, the increased amount may then be applied to another logging unit subject to any adjustment in the amount of the performance bond to cover the value of timber on such logging unit.

(c) As contract provisions are completed to the satisfaction of the authorized officer, he may, in his discretion, reduce the amount of the performance bond required; *Provided, however*, The amount of the performance bond shall not be reduced below the minimum required by paragraph (a) of this section until payment for the timber sold is complete.

3. Section 115.28 is amended to conform to the provisions of § 115.27(b); permit installment payments on timber sales over $500; provide for payment of total purchase price prior to original expiration date of contract; and delete provision for payment of road right-of-way timber in advance of payment of the second installment. As so amended § 115.28 reads as follows:

§ 115.28 Payments.

(a) Except as provided in § 115.27(b), no part of any timber sold may be cut or removed unless advance payment has been made as provided in the contract.

(b) For sales under $500 the full amount shall be paid prior to or at the time the authorized officer signs the contract. For sales of $500 or more the authorized officer may allow payment by installments as provided in the following paragraph (c) of this section.

(c) Contract installment payments shall be determined by the authorized officer as follows:

(1) *Payment in advance of cutting.* For sales under $100,000 installment payments shall be not less than 10 percent of the total purchase price. For sales of $100,000 or more installment payments shall not be less than $10,000. The first installment shall be paid prior to, or at the time the authorized officer signs the contract. The second installment shall be paid prior to the cutting or removal of the timber sold. Each subsequent installment shall be due and payable without notice when the value of the timber cut or removed equals the sum of all the payments minus the first installment.

(2) *Payment in advance of removal.* The first installment shall be paid in the same manner as provided in subparagraph (1) of this paragraph. If cutting of timber before payment of the second and subsequent installments, as provided by § 115.27(b) is permitted, the amounts of the second and subsequent installment payments shall be based on the authorized officer's determination of the value of the timber located upon the logging units. Payment shall be made for the value of the timber on each logging unit in advance of removal of any timber from such unit.

(d) The total amount of the contract purchase price must be paid prior to expiration of the original time for cutting and removal under the contract. For a cruise sale the purchaser shall not

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be entitled to a refund even though the amount of timber cut, removed, or designated for cutting may be less than the estimated total volume shown in the contract. For a scale sale, if it is determined after all designated timber has been cut and measured that the total payments made under the contract exceed the total value of the timber measured, such excess shall be refunded to the purchaser within 60 days after such determination is made.

4. Section 115.29 is amended to provide for coincidental expiration of the time for cutting and removal and provides that time for cutting and removal shall not exceed a period of thirty months. As so amended § 115.29 reads as follows:

§ 115.29 Time for cutting and removal.

Time for cutting and removal of timber sold shall not exceed a period of thirty months except that such time for cutting and removal may be extended as provided in § 115.30.

5. Section 115.30 is amended to conform to the provisions of § 115.29. As so amended § 115.30 reads as follows:

§ 115.30 Extension of time.

If the purchaser shows that his delay in cutting or removal was due to causes beyond his control and without his fault or negligence, the authorized officer may grant an extension of time, not to exceed one year, upon written request of the purchaser. Such written request must be received not later than thirty (30) days prior to the expiration date of the time for cutting and removal but not earlier than ninety (90) days prior thereto. Additional extensions may be granted if the purchaser submits a written request not later than thirty (30) days prior to the expiration date of an extension but not earlier than ninety (90) days prior thereto. No extension may be granted without reappraisal as provided in § 115.31.

6. Section 115.31 is amended to clarify reappraisal procedures. As so amended § 115.31 reads as follows:

§ 115.31 Reappraisal.

(a) If an extension is granted as provided in § 115.30, the timber sold shall be reappraised by the authorized officer. In making the reappraisal, the authorized officer shall use the Bureau of Land Management's prescribed procedures.

(b) For a cruise sale the timber sold remaining on the contract area shall be reappraised for the purpose of computing the reappraised total purchase price. The reappraised total purchase price shall not be less than the total purchase price established by the contract or previous extension. The reappraised total purchase price shall be paid in advance as a condition of granting an extension.

(c) For a scale sale each species of timber remaining on the contract area shall be reappraised. The reappraised unit price for each species shall be effective for the remaining life of the contract; *Provided, however,* The reappraised unit price for each species shall not be less than the unit price established by the contract or previous extension.

(Sec. 5, 50 Stat. 875; 43 U.S.C. 1181e)

7. Section 259.1(a) is amended to change and clarify the wording of the last sentence. As so amended § 259.1(a) reads as follows:

§ 259.1 Statutory authority.

(a) The act of July 31, 1947 (61 Stat. 681), as amended by the act of July 23, 1955 (69 Stat. 367; U.S.C. 601 et seq.) authorizes the disposal of timber on public lands of the United States, if the disposal of such timber (1) is not otherwise expressly authorized by law including, but not limited to, the act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315), as amended, and the United States mining laws, (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. The act authorizes the United States, its permittees, and licensees to use so much of the surface of any unpatented mining claim located under the mining laws of the United States after July 23, 1955, as may be necessary for access to adjacent land for the purposes of such permittees or licensees. Any authorized use of the surface shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

8. Section 259.2 is amended by the addition of a new paragraph designated (h) as follows:

§ 259.2 Definitions.

* * * * *

(h) "Logging Unit" means a portion of the cutting area under contract clearly designated or marked by the authorized officer for the purpose of administering optional bonding and payment provisions of the timber sale contract. The total cutting area under contract may not be divided into less than two logging units.

9. Section 259.8(a) is amended to clarify the paragraph. As so amended § 259.8(a) reads as follows:

§ 259.8 Negotiated sales.

(a) When it is determined by the authorized officer to be in the public interest, he may sell at not less than the appraised value, without advertising or calling for bids, timber not exceeding an estimated volume of 100 M board feet and not exceeding $1,000, or, if the timber is not measured in board feet, a quantity not exceeding $1,000 in appraised value, to or for the benefit of any one person, partnership, association, or corporation in any period of twelve consecutive months.

10. Section 259.14 is amended to raise optional bonding limit to $2,500; establish $500 minimum bond on installment contracts valued from $500 to $2,500; delete the present paragraph (b) and substitute therefor provision for the optional cut against the performance bond; and provide for reducing bond below 20 percent of purchase price. As so amended § 259.14 reads as follows:

§ 259.14 Performance bonds.

(a) A minimum performance bond of not less than 20 percent of the total contract price will be required for all contracts of $2,500 or more. A minimum performance bond of not less than $500 will be required for all installment contracts less than $2,500. For cash sales less than $2,500, bond requirements, if any, will be in the discretion of the authorized officer. The performance bond may be:

(1) Bond of a corporate surety shown on the approved list issued by the United States Treasury Department and executed on an approved standard form; or

(2) Personal surety bond, executed on an approved standard form if the authorized officer determines the principals and bondsmen are capable of carrying out the terms of the contract; or

(3) Cash bond; or

(4) Negotiable securities of the United States.

(b) The authorized officer may allow the cutting of timber before payment of the second and subsequent installments as provided in this paragraph. The authorized officer shall designate logging units within the cutting area under contract and assign to them values solely for the purpose of increasing the amount of the performance bond and for payment. The purchaser shall increase the minimum performance bond required by paragraph (a) of this section by an amount equal to the value of the timber on each logging unit and shall obtain written approval of the authorized officer for the adjusted bond prior to cutting any timber on such unit. Cutting authorized in advance of payment shall be limited to one logging unit and the increased amount of the bond shall be used to assure payment for the timber on that unit. Upon payment for the timber on such unit, the increased amount may then be applied to another logging unit subject to any adjustment in the amount of the performance bond to cover the value of timber on such logging unit.

(c) As contract provisions are completed to the satisfaction of the authorized officer, he may, in his discretion, reduce the amount of the performance bond required: *Provided, however,* The amount of the performance bond shall not be reduced below the minimum required by paragraph (a) of this section until payment for the timber sold is complete.

11. Section 259.15 is amended to conform to the provisions of § 259.14(b); permit installment payments on timber sales over $500; provide for payment of total purchase price prior to original expiration date of contract; and delete provision for payment of road right of way timber in advance of payment of the second installment. As so amended § 259.15 reads as follows:

§ 259.15 Payments.

(a) Except as provided in § 259.14(b), no part of any timber sold may be cut or removed unless advance payment has been made as provided in the contract.

(b) For sales under $500 the full amount shall be paid prior to or at the time the authorized officer signs the contract. For sales of $500 or more the authorized officer may allow payment by installments as provided in the following paragraph (c) of this section.

(c) Contract installment payments shall be determined by the authorized officer as follows:

(1) *Payment in advance of cutting.* For sales under $100,000 installment payments shall be not less than 10 percent of the total purchase price. For sales of $100,000 or more installment payments shall not be less than $10,000. The first installment shall be paid prior to, or at the time the authorized officer signs the contract. The second installment shall be paid prior to the cutting or removal of the timber sold. Each subsequent installment shall be due and payable without notice when the value of the timber cut or removed equals the sum of all the payments minus the first installment.

(2) *Payment in advance of removal.* The first installment shall be paid in the same manner as provided in subparagraph (1) of this paragraph. If cutting of timber before payment of the second and subsequent installments, as provided by § 259.14(b) is permitted, the amounts of the second and subsequent installment payments shall be based on the authorized officer's determination of the value of the timber located upon the logging units. Payment shall be made for the value of the timber on each logging unit in advance of removal of any timber from such unit.

(d) The total amount of the contract purchase price must be paid prior to expiration of the original time for cutting and removal under the contract. For a cruise sale the purchaser shall not be entitled to a refund even though the amount of timber cut, removed, or designated for cutting may be less than the estimated total volume shown in the contract. For a scale sale, if it is determined after all designated timber has been cut and measured that the total payments made under the contract exceed the total value of the timber measured, such excess shall be refunded to the purchaser within 60 days after such determination is made.

12. Section 259.16 is amended to provide for coincidental expiration of the time for cutting and removal and provides that time for cutting and removal shall not exceed a period of thirty months. As so amended § 259.16 reads as follows:

§ 259.16 Time for cutting and removal.

Time for cutting and removal of timber sold shall not exceed a period of thirty months except that such time for cutting and removal may be extended as provided in § 259.17.

13. Section 259.17 is amended to conform to the provisions of § 259.16. As so amended § 259.17 reads as follows:

§ 259.17 Extension of time.

If the purchaser shows that his delay in cutting or removal was due to causes beyond his control and without his fault or negligence, the authorized officer may grant an extension of time, not to exceed one year, upon written request of the purchaser. Such written request must be received not later than thirty (30) days prior to the expiration date of the time for cutting and removal but not earlier than ninety (90) days prior thereto. Additional extensions may be granted if the purchaser submits a written request not later than thirty (30) days prior to the expiration date of an extension but not earlier than ninety (90) days prior thereto. No extension may be granted without reappraisal as provided in § 259.18.

14. Section 259.18 is amended to clarify reappraisal procedures. As so amended § 259.18 reads as follows:

§ 259.18 Reappraisal.

(a) If an extension is granted as provided in § 259.17, the timber sold shall be reappraised by the authorized officer. In making the reappraisal, the authorized officer shall use the Bureau of Land Management's prescribed procedures.

(b) For a cruise sale the timber sold remaining on the contract area shall be reappraised for the purpose of computing the reappraised total purchase price. The reappraised total purchase price shall not be less than the total purchase price established by the contract or previous extension. The reappraised total purchase price shall be paid in advance as a condition of granting an extension.

(c) For a scale sale each species of timber remaining on the contract area shall be reappraised. The reappraised unit price for each species shall be effective for the remaining life of the contract: *Provided, however,* The reappraised unit price for each species shall not be less than the unit price established by the contract or previous extension.

(61 Stat. 681, as amended; 30 U.S.C. 601)

STEWART L. UDALL,
Secretary of the Interior.

AUGUST 24, 1962.

[F.R. Doc. 62-8745; Filed, Aug. 30, 1962; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2086]

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

PART 259—DISPOSAL OF TIMBER AND MINERAL RESOURCES

Miscellaneous Amendments

1. Section 115.16 is amended by the addition of a new paragraph designated (g) as follows:

§ 115.16 Definitions.

* * * * *

(g) "Logging unit" means a portion of the cutting area under contract clearly designated or marked by the authorized officer for the purpose of administering optional bonding and payment provisions of the timber sale contract. The total cutting area under contract may not be divided into less than two logging units.

2. Section 115.27 is amended to raise optional bonding limit to $2,500; establish $500 minimum bond on installment contracts valued from $500 to $2,500; delete the present paragraph (b) and substitute therefor provision for the optional cut against the performance bond; and provide for reducing bond below 20 percent of purchase price. As so amended § 115.27 reads as follows:

§ 115.27 Performance bonds.

(a) A minimum performance bond of not less than 20 percent of the total contract price will be required for all contracts of $2,500 or more. A minimum performance bond of not less than $500 will be required for all installment contracts less than $2,500. For cash sales less than $2,500, bond requirements, if any, will be in the discretion of the authorized officer. The performance bond may be:

(1) Bond of a corporate surety shown on the approved list issued by the United States Treasury Department and executed on an approved standard form; or

(2) Personal surety bond, executed on an approved standard form if the authorized officer determines the principals and bondsmen are capable of carrying out the terms of the contract; or

(3) Cash bond; or

(4) Negotiable securities of the United States.

(b) The authorized officer may allow the cutting of timber before payment of the second and subsequent installments as provided in this paragraph. The authorized officer shall designate logging units within the cutting area under contract and assign to them values solely for the purpose of increasing the amount of the performance bond and for payment. The purchaser shall increase the minimum performance bond required by paragraph (a) of this section by an amount equal to the value of the timber on each logging unit and shall obtain written approval of the authorized officer for the adjusted bond prior to cutting any timber on such unit. Cutting authorized in advance of payment shall be limited to one logging unit and the increased amount of the bond shall be used to assure payment for the timber on that unit. Upon payment for the timber on such unit, the increased amount may then be applied to another logging unit subject to any adjustment in the amount of the performance bond to cover the value of timber on such logging unit.

(c) As contract provisions are completed to the satisfaction of the authorized officer, he may, in his discretion, reduce the amount of the performance bond required; *Provided, however,* The amount of the performance bond shall not be reduced below the minimum required by paragraph (a) of this section until payment for the timber sold is complete.

3. Section 115.28 is amended to conform to the provisions of § 115.27(b); permit installment payments on timber sales over $500; provide for payment of total purchase price prior to original expiration date of contract; and delete provision for payment of road right-of-way timber in advance of payment of the second installment. As so amended § 115.28 reads as follows:

§ 115.28 Payments.

(a) Except as provided in § 115.27(b), no part of any timber sold may be cut or removed unless advance payment has been made as provided in the contract.

(b) For sales under $500 the full amount shall be paid prior to or at the time the authorized officer signs the contract. For sales of $500 or more the authorized officer may allow payment by installments as provided in the following paragraph (c) of this section.

(c) Contract installment payments shall be determined by the authorized officer as follows:

(1) *Payment in advance of cutting.* For sales under $100,000 installment payments shall be not less than 10 percent of the total purchase price. For sales of $100,000 or more installment payments shall not be less than $10,000. The first installment shall be paid prior to, or at the time the authorized officer signs the contract. The second installment shall be paid prior to the cutting or removal of the timber sold. Each subsequent installment shall be due and payable without notice when the value of the timber cut or removed equals the sum of all the payments minus the first installment.

(2) *Payment in advance of removal.* The first installment shall be paid in the same manner as provided in subparagraph (1) of this paragraph. If cutting of timber before payment of the second and subsequent installments, as provided by § 115.27(b) is permitted, the amounts of the second and subsequent installment payments shall be based on the authorized officer's determination of the value of the timber located upon the logging units. Payment shall be made for the value of the timber on each logging unit in advance of removal of any timber from such unit.

(d) The total amount of the contract purchase price must be paid prior to expiration of the original time for cutting and removal under the contract. For a cruise sale the purchaser shall not

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be entitled to a refund even though the amount of timber cut, removed, or designated for cutting may be less than the estimated total volume shown in the contract. For a scale sale, if it is determined after all designated timber has been cut and measured that the total payments made under the contract exceed the total value of the timber measured, such excess shall be refunded to the purchaser within 60 days after such determination is made.

4. Section 115.29 is amended to provide for coincidental expiration of the time for cutting and removal and provides that time for cutting and removal shall not exceed a period of thirty months. As so amended § 115.29 reads as follows:

§ 115.29 Time for cutting and removal.

Time for cutting and removal of timber sold shall not exceed a period of thirty months except that such time for cutting and removal may be extended as provided in § 115.30.

5. Section 115.30 is amended to conform to the provisions of § 115.29. As so amended § 115.30 reads as follows:

§ 115.30 Extension of time.

If the purchaser shows that his delay in cutting or removal was due to causes beyond his control and without his fault or negligence, the authorized officer may grant an extension of time, not to exceed one year, upon written request of the purchaser. Such written request must be received not later than thirty (30) days prior to the expiration date of the time for cutting and removal but not earlier than ninety (90) days prior thereto. Additional extensions may be granted if the purchaser submits a written request not later than thirty (30) days prior to the expiration date of an extension but not earlier than ninety (90) days prior thereto. No extension may be granted without reappraisal as provided in § 115.31.

6. Section 115.31 is amended to clarify reappraisal procedures. As so amended § 115.31 reads as follows:

§ 115.31 Reappraisal.

(a) If an extension is granted as provided in § 115.30, the timber sold shall be reappraised by the authorized officer. In making the reappraisal, the authorized officer shall use the Bureau of Land Management's prescribed procedures.

(b) For a cruise sale the timber sold remaining on the contract area shall be reappraised for the purpose of computing the reappraised total purchase price. The reappraised total purchase price shall not be less than the total purchase price established by the contract or previous extension. The reappraised total purchase price shall be paid in advance as a condition of granting an extension.

(c) For a scale sale each species of timber remaining on the contract area shall be reappraised. The reappraised unit price for each species shall be effective for the remaining life of the contract; *Provided, however,* The reappraised unit price for each species shall not be less than the unit price established by the contract or previous extension.

(Sec. 5, 50 Stat. 875; 43 U.S.C. 1181e)

7. Section 259.1(a) is amended to change and clarify the wording of the last sentence. As so amended § 259.1(a) reads as follows:

§ 259.1 Statutory authority.

(a) The act of July 31, 1947 (61 Stat. 681), as amended by the act of July 23, 1955 (69 Stat. 367; U.S.C. 601 et seq.) authorizes the disposal of timber on public lands of the United States, if the disposal of such timber (1) is not otherwise expressly authorized by law including, but not limited to, the act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315), as amended, and the United States mining laws, (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. The act authorizes the United States, its permittees, and licensees to use so much of the surface of any unpatented mining claim located under the mining laws of the United States after July 23, 1955, as may be necessary for access to adjacent land for the purposes of such permittees or licensees. Any authorized use of the surface shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

8. Section 259.2 is amended by the addition of a new paragraph designated (h) as follows:

§ 259.2 Definitions.

* * * * *

(h) "Logging Unit" means a portion of the cutting area under contract clearly designated or marked by the authorized officer for the purpose of administering optional bonding and payment provisions of the timber sale contract. The total cutting area under contract may not be divided into less than two logging units.

9. Section 259.8(a) is amended to clarify the paragraph. As so amended § 259.8(a) reads as follows:

§ 259.8 Negotiated sales.

(a) When it is determined by the authorized officer to be in the public interest, he may sell at not less than the appraised value, without advertising or calling for bids, timber not exceeding an estimated volume of 100 M board feet and not exceeding $1,000, or, if the timber is not measured in board feet, a quantity not exceeding $1,000 in appraised value, to or for the benefit of any one person, partnership, association, or corporation in any period of twelve consecutive months.

10. Section 259.14 is amended to raise optional bonding limit to $2,500; establish $500 minimum bond on installment contracts valued from $500 to $2,500; delete the present paragraph (b) and substitute therefor provision for the optional cut against the performance bond; and provide for reducing bond below 20 percent of purchase price. As so amended § 259.14 reads as follows:

§ 259.14 Performance bonds.

(a) A minimum performance bond of not less than 20 percent of the total contract price will be required for all contracts of $2,500 or more. A minimum performance bond of not less than $500 will be required for all installment contracts less than $2,500. For cash sales less than $2,500, bond requirements, if any, will be in the discretion of the authorized officer. The performance bond may be:

(1) Bond of a corporate surety shown on the approved list issued by the United States Treasury Department and executed on an approved standard form; or

(2) Personal surety bond, executed on an approved standard form if the authorized officer determines the principals and bondsmen are capable of carrying out the terms of the contract; or

(3) Cash bond; or

(4) Negotiable securities of the United States.

(b) The authorized officer may allow the cutting of timber before payment of the second and subsequent installments as provided in this paragraph. The authorized officer shall designate logging units within the cutting area under contract and assign to them values solely for the purpose of increasing the amount of the performance bond and for payment. The purchaser shall increase the minimum performance bond required by paragraph (a) of this section by an amount equal to the value of the timber on each logging unit and shall obtain written approval of the authorized officer for the adjusted bond prior to cutting any timber on such unit. Cutting authorized in advance of payment shall be limited to one logging unit and the increased amount of the bond shall be used to assure payment for the timber on that unit. Upon payment for the timber on such unit, the increased amount may then be applied to another logging unit subject to any adjustment in the amount of the performance bond to cover the value of timber on such logging unit.

(c) As contract provisions are completed to the satisfaction of the authorized officer, he may, in his discretion, reduce the amount of the performance bond required: *Provided, however,* The amount of the performance bond shall not be reduced below the minimum required by paragraph (a) of this section until payment for the timber sold is complete.

11. Section 259.15 is amended to conform to the provisions of § 259.14(b); permit installment payments on timber sales over $500; provide for payment of total purchase price prior to original expiration date of contract; and delete provision for payment of road right of way timber in advance of payment of the second installment. As so amended § 259.15 reads as follows:

§ 259.15 Payments.

(a) Except as provided in § 259.14(b), no part of any timber sold may be cut or removed unless advance payment has been made as provided in the contract.

(b) For sales under $500 the full amount shall be paid prior to or at the time the authorized officer signs the contract. For sales of $500 or more the authorized officer may allow payment by installments as provided in the following paragraph (c) of this section.

(c) Contract installment payments shall be determined by the authorized officer as follows:

(1) *Payment in advance of cutting.* For sales under $100,000 installment payments shall be not less than 10 percent of the total purchase price. For sales of $100,000 or more installment payments shall not be less than $10,000. The first installment shall be paid prior to, or at the time the authorized officer signs the contract. The second installment shall be paid prior to the cutting or removal of the timber sold. Each subsequent installment shall be due and payable without notice when the value of the timber cut or removed equals the sum of all the payments minus the first installment.

(2) *Payment in advance of removal.* The first installment shall be paid in the same manner as provided in subparagraph (1) of this paragraph. If cutting of timber before payment of the second and subsequent installments, as provided by § 259.14(b) is permitted, the amounts of the second and subsequent installment payments shall be based on the authorized officer's determination of the value of the timber located upon the logging units. Payment shall be made for the value of the timber on each logging unit in advance of removal of any timber from such unit.

(d) The total amount of the contract purchase price must be paid prior to expiration of the original time for cutting and removal under the contract. For a cruise sale the purchaser shall not be entitled to a refund even though the amount of timber cut, removed, or designated for cutting may be less than the estimated total volume shown in the contract. For a scale sale, if it is determined after all designated timber has been cut and measured that the total payments made under the contract exceed the total value of the timber measured, such excess shall be refunded to the purchaser within 60 days after such determination is made.

12. Section 259.16 is amended to provide for coincidental expiration of the time for cutting and removal and provides that time for cutting and removal shall not exceed a period of thirty months. As so amended § 259.16 reads as follows:

§ 259.16 Time for cutting and removal.

Time for cutting and removal of timber sold shall not exceed a period of thirty months except that such time for cutting and removal may be extended as provided in § 259.17.

13. Section 259.17 is amended to conform to the provisions of § 259.16. As so amended § 259.17 reads as follows:

§ 259.17 Extension of time.

If the purchaser shows that his delay in cutting or removal was due to causes beyond his control and without his fault or negligence, the authorized officer may grant an extension of time, not to exceed one year, upon written request of the purchaser. Such written request must be received not later than thirty (30) days prior to the expiration date of the time for cutting and removal but not earlier than ninety (90) days prior thereto. Additional extensions may be granted if the purchaser submits a written request not later than thirty (30) days prior to the expiration date of an extension but not earlier than ninety (90) days prior thereto. No extension may be granted without reappraisal as provided in § 259.18.

14. Section 259.18 is amended to clarify reappraisal procedures. As so amended § 259.18 reads as follows:

§ 259.18 Reappraisal.

(a) If an extension is granted as provided in § 259.17, the timber sold shall be reappraised by the authorized officer. In making the reappraisal, the authorized officer shall use the Bureau of Land Management's prescribed procedures.

(b) For a cruise sale the timber sold remaining on the contract area shall be reappraised for the purpose of computing the reappraised total purchase price. The reappraised total purchase price shall not be less than the total purchase price established by the contract or previous extension. The reappraised total purchase price shall be paid in advance as a condition of granting an extension.

(c) For a scale sale each species of timber remaining on the contract area shall be reappraised. The reappraised unit price for each species shall be effective for the remaining life of the contract: *Provided, however,* The reappraised unit price for each species shall not be less than the unit price established by the contract or previous extension.

(61 Stat. 681, as amended; 30 U.S.C. 601)

STEWART L. UDALL,
Secretary of the Interior.

AUGUST 24, 1962.

[F.R. Doc. 62-8745; Filed, Aug. 30, 1962; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2087]

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

SUBCHAPTER E—SALE, LEASE, OR USE, AND ACQUISITIONS

PART 259—DISPOSAL OF TIMBER AND MINERAL RESOURCES

Qualifications of Bidders and Purchasers

1. Section 115.22 is amended by designating the existing language as paragraph (a) and changing the letters in the first sentence to numbers in chronological order. A new paragraph, designated (b), is added. As so amended § 115.22 reads as follows:

§ 115.22 Qualifications of bidders.

(a) A bidder for the sale of timber must be (1) an individual who is a citizen of the United States, (2) a partnership composed wholly of such citizens, (3) an unincorporated association composed wholly of such citizens, or (4) a corporation authorized to transact business in the State of Oregon. A bidder must also have submitted a deposit in advance of sale as required by § 115.23. To purchase set-aside timber, the bidder must accompany his deposit with a self certification statement that he is qualified as a small business concern as defined by the Small Business Administration in its regulations (13 CFR Part 121).

(b) Where a timber sale notice provides that the successful bidder may use a Small Business Administration road construction loan, and the bidder has reason to believe that he qualifies for such road construction loan under SBA regulations (13 CFR Part 121), the bidder shall submit with his deposit a statement of his intention to file with SBA for such SBA road construction loan. If a statement is not timely filed, the Bureau may not participate in the cooperative loan program.

2. Section 259.9 is amended by designating the existing language as paragraph (a) and changing the letters in the first sentence to numbers in chronological order. A new paragraph, designated (b), is added. As so amended § 259.9 reads as follows:

§ 259.9 Qualification of bidders and purchasers.

(a) A bidder or purchaser for the sale of timber must be (1) an individual who is a citizen of the United States, (2) a partnership composed wholly of such citizens, (3) an unincorporated association composed wholly of such citizens, or (4) a corporation authorized to transact business in the States in which the timber is located. A bidder must also have submitted a deposit in advance, as required by § 259.10. To qualify for bidding to purchase set-aside timber, the bidder must accompany his deposit with a self certification statement that he is qualified as a small business concern as defined by the Small Business Administration (13 CFR Part 121).

(b) Where a timber sale notice provides that the successful bidder may use a Small Business Administration road construction loan, and the bidder has reason to believe that he qualifies for such road construction loan under SBA regulations (13 CFR Part 121), the bidder shall submit with his deposit a statement of his intention to file with SBA for such SBA road construction loan. If a statement is not timely filed, the Bureau may not participate in the cooperative loan program.

JOHN A. CARVER, Jr.,
Acting Secretary of the Interior.

AUGUST 31, 1962.

[F.R. Doc. 62-8988; Filed, Sept. 6, 1962; 8:54 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2087]

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

PART 259—DISPOSAL OF TIMBER AND MINERAL RESOURCES

Qualifications of Bidders and Purchasers

1. Section 115.22 is amended by designating the existing language as paragraph (a) and changing the letters in the first sentence to numbers in chronological order. A new paragraph, designated (b), is added. As so amended § 115.22 reads as follows:

§ 115.22 Qualifications of bidders.

(a) A bidder for the sale of timber must be (1) an individual who is a citizen of the United States, (2) a partnership composed wholly of such citizens, (3) an unincorporated association composed wholly of such citizens, or (4) a corporation authorized to transact business in the State of Oregon. A bidder must also have submitted a deposit in advance of sale as required by § 115.23. To purchase set-aside timber, the bidder must accompany his deposit with a self certification statement that he is qualified as a small business concern as defined by the Small Business Administration in its regulations (13 CFR Part 121).

(b) Where a timber sale notice provides that the successful bidder may use a Small Business Administration road construction loan, and the bidder has reason to believe that he qualifies for such road construction loan under SBA regulations (13 CFR Part 121), the bidder shall submit with his deposit a statement of his intention to file with SBA for such SBA road construction loan. If a statement is not timely filed, the Bureau may not participate in the cooperative loan program.

2. Section 259.9 is amended by designating the existing language as paragraph (a) and changing the letters in the first sentence to numbers in chronological order. A new paragraph, designated (b), is added. As so amended § 259.9 reads as follows:

§ 259.9 Qualification of bidders and purchasers.

(a) A bidder or purchaser for the sale of timber must be (1) an individual who is a citizen of the United States, (2) a partnership composed wholly of such citizens, (3) an unincorporated association composed wholly of such citizens, or (4) a corporation authorized to transact business in the States in which the timber is located. A bidder must also have submitted a deposit in advance, as required by § 259.10. To qualify for bidding to purchase set-aside timber, the bidder must accompany his deposit with a self certification statement that he is qualified as a small business concern as defined by the Small Business Administration (13 CFR Part 121).

(b) Where a timber sale notice provides that the successful bidder may use a Small Business Administration road construction loan, and the bidder has reason to believe that he qualifies for such road construction loan under SBA regulations (13 CFR Part 121), the bidder shall submit with his deposit a statement of his intention to file with SBA for such SBA road construction loan. If a statement is not timely filed, the Bureau may not participate in the cooperative loan program.

JOHN A. CARVER, JR.,
Acting Secretary of the Interior.

AUGUST 31, 1962.

[F.R. Doc. 62-8966; Filed, Sept. 6, 1962; 8:54 a.m.]

Published in 27 F.R. September 7, 1962 - Effective upon publication.

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Repl. by C-2173

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER F—COLOR OF TITLE AND RIPARIAN CLAIMS

[Circular No. 2088]

PART 141—COLOR OF TITLE AND RIPARIAN CLAIMS APPLICABLE TO PARTICULAR STATES

Snake River, Idaho, Omitted Lands

SNAKE RIVER, IDAHO, OMITTED LANDS

Sec.
141.24 Statutory Authority.
141.25 Offers of Land for Sale.
141.26 Applications for Purchase.
141.27 Payment and Publication.
141.28 Public Auctions.

AUTHORITY: §§ 141.24 to 141.28 issued under Act of May 31, 1962; 76 Stat. 89.

§ 141.24 Statutory authority.

(a) The Act of May 31, 1962 (76 Stat. 89), hereafter referred to as "the Act", authorizes the Secretary of the Interior, in his discretion, to sell at not less than their fair market value any of those lands in the State of Idaho, in the vicinity of the Snake River or any of its tributaries, which have been, or may be, found upon survey to be omitted public lands of the United States, and which are not within the boundaries of a national forest or other Federal reservation and are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws, or are not used and occupied by Indians claiming by reason of aboriginal rights or are not used and occupied by Indians who are eligible for an allotment under the laws pertaining to allotments on the public domain.

(b) The Act provides that in all patents issued under the Act, the Secretary of the Interior (1) shall include a reservation to the United States of all the coal, oil, gas, oil shale, phosphate, potash, sodium, native asphalt, solid and semisolid bitumen, and bitumen rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried), together with the right to prospect for, mine, and remove the same; and (2) may reserve the right of access to the public through the lands and such other reservations as he may deem appropriate and consonant with the public interest in preserving public recreational values in the lands.

(c) The Act further provides that the Secretary of the Interior shall determine the fair market value of the lands by appraisal, taking into consideration any reservations specified pursuant to paragraph (b) of this section and excluding, when sales are made to preference-right claimants under section 2 of the Act, any increased values resulting from the development or improvement thereof for agricultural or other purposes by the claimant or his predecessors in interest.

(d) The Act grants a preference right to purchase lands which are offered by the Secretary of the Interior for sale under the Act to any citizen of the United States (which term includes corporations, partnerships, firms, and other legal entities having authority to hold title to lands in the State of Idaho) who, in good faith under color of title or claiming as a riparian owner has, prior to March 30, 1961, placed valuable improvements upon, reduced to cultivation or occupied any of the lands so offered for sale, or whose ancestors or predecessors in title have taken such action.

§ 141.25 Offers of lands for sale.

Before any lands may be sold under the Act, the authorized officer of the Bureau of Land Management shall publish in the FEDERAL REGISTER and in at least one newspaper of general circulation within the State of Idaho a notice that the lands will be offered for sale, which notice shall specify a period of time not less than 30 days in duration during which citizens may file with the land office at Boise, Idaho, a notice of their intention to apply to purchase all or part of the lands as qualified preference-right claimants.

§ 141.26 Applications for purchase.

(a) All citizens who file a notice of intention in accordance with § 141.25 within the time period specified in the published notice or any amendment thereof will be granted by the authorized officer a period of time not less than 30 days in duration in which to file, in duplicate with the Manager of the Boise Land Office, their applications to purchase lands as preference-right claimants.

(b) Every application must be accompanied by a filing fee of $10, which is not returnable.

(c) No particular form is required but the applications must be typewritten or in legible handwriting and must contain the following information:[1]

(1) The name and post office address of the claimant.

(2) The description and acreage of the public lands claimed or desired.

(3) The description of the lands owned by the applicant, if any, adjoining the public lands claimed or desired, accompanied by a certificate from the proper county official or by an abstractor or by an attorney, showing the date of acquisition of the lands by the applicant and that the applicant owns the lands in fee simple as of the date of application.

(4) A statement showing that the claimant is a citizen of the United States, as defined in paragraph (d) of § 141.24.

(5) A statement giving the basis for color of title or claim of riparian ownership.

(6) A statement showing the improvements, if any, placed on the public lands applied for including their location, nature, present value, date of installation, and the names of the person or persons who installed them.

(7) A statement showing the cultivation and occupancy, if any, of the lands applied for, including the nature, location, and date of such cultivation and occupancy.

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[1] Title 18, U.S.C., sec. 1001, makes it a crime for any person knowingly and willfully to make any false, fictitious, or fraudulent statements or representations to any department or agency as to any matter within its jurisdiction.

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Circular Distribution List

(8) The names and post office addresses of any adverse claimants, settlers, or occupants of the public lands claimed.

(9) The names and addresses of at least two disinterested persons having knowledge of the facts relating to the applicant's claim.

(10) A citation of the act under which the application is made.

§ 141.27 Payment and publication.

(a) Before lands may be sold to a qualified preference-right claimant, the claimant will be required to pay the purchase price of the lands and will be required to publish once a week for four consecutive weeks, at his expense, in a designated newspaper and in a designated form, a notice allowing all persons having objections to file with the Manager of the Land Office at Boise, Idaho, their objections to issuance of patent to the claimant. A protestant must serve on the claimant a copy of the objections and must furnish the Manager with evidence of such service.

(b) Among other things, the notice will describe the lands to be patented, state the purchase price for the lands, and the reservations, if any, to be included in the patent to preserve public recreational values in the lands.

(c) The claimant must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

§ 141.28 Public auctions.

(a) The authorized officer may sell under the Act at public auction any lands for which preference-claimants do not qualify for patents under the regulations of §§ 141.24–141.27.

(b) Lands will be sold under this section at not less than their appraised fair market value at the time and place and in the manner specified by the authorized officer in a public notice of the sale.

(c) Bids may be made by the principal or his agent, either personally at the sale or by mail.

(d) A bid sent by mail must be received at the place and within the time specified in the public notice. Each such bid must clearly state (1) the name and address of the bidder and (2) the specified tract, as described in the notice for which the bid is made. The envelope must be noted as required by the notice.

(e) Each bid by mail must be accompanied by certified or cashier's check, post office money order or bank draft for the amount of the bid.

(f) The person who submits the highest bid for each tract at the close of bidding, but not less than the minimum price, will be declared the purchaser.

JOHN A. CARVER, Jr.,
Acting Secretary of the Interior.

SEPTEMBER 6, 1962.

[F.R. Doc. 62-9077; Filed, Sept. 11, 1962; 8:47 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular No. 2089]

PART 185—GENERAL MINING REGULATIONS

Common Varieties: Defined

Paragraph (b) of § 185.121 is revised in its entirety as follows (and the footnote 2 is deleted):

§ 185.121 *Common varieties: defined.*

* * * * *

(b) "Common varieties" includes deposits which, although they may have value for use in trade, manufacture, the sciences, or in the mechanical or ornamental arts, do not possess a distinct, special economic value for such use over and above the normal uses of the general run of such deposits. Mineral materials which occur commonly shall not be deemed to be "common varieties" if a particular deposit has distinct and special properties making it commercially valuable for use in a manufacturing, industrial, or processing operation. In the determination of commerical value, such factors may be considered as quality and quantity of the deposit, geographical location, proximity to market or point of utilization, accessibility to transportation, requirements for reasonable reserves consistent with usual industry practices to serve existing or proposed manufacturing, industrial, or processing facilities, and feasible methods for mining and removal of the material. Limestone suitable for use in the production of cement, metallurgical or chemical grade limestone, gypsum, and the like are not "common varieties." This subsection does not relieve a claimant from any requirements of the mining laws.

JOHN A. CARVER, Jr.,
Acting Secretary of the Interior.

SEPTEMBER 7, 1962.

[F.R. Doc. 62-9184; Filed, Sept. 13, 1962; 8:46 a.m.]

Published in 27 F.R. September 14, 1962 - Effective upon publication.

Circular Distribution List

Repl. by C-2145

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER H—GRAZING

[Circular 2090]

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Grazing District Advisory Boards

Paragraphs (b) and (c) of § 161.13 are amended to read as follows:

§ 161.13 Grazing District Advisory Boards.

* * * * *

(b) *Election; time and place; the general procedures.* All district advisers, except wildlife representatives, shall be elected in the manner provided in this section, and in the General Procedures for Grazing District Advisory Board Elections as approved by the Director, Bureau of Land Management, and published in the FEDERAL REGISTER. An election of district advisers for each grazing district will be held within 90 days after the publication in the FEDERAL REGISTER of the order establishing the grazing district. Thereafter elections shall be held annually by actual polling or by mail, in accordance with the options in the General Procedures for Grazing District Advisory Board Elections.

(c) *Appointment; term of office; removal; vacancies.* Upon receipt of the judges' certificate of returns after conclusion of the election procedure the district manager shall notify the State Director of the results thereof. A person elected as district adviser shall assume office only after he has been appointed by the State Director and has taken the oath of office. Such person shall serve for the fiscal year for which he has been elected. The State Director may remove any district adviser from office because of failure to discharge his duties, loss of any of his qualifications to hold the office, or in the public interest. Upon a vacancy occurring in the office of a district adviser other than a wildlife representative by reason of resignation, removal, disqualification, or otherwise, the board shall recommend the name of a person to fill the vacancy and such recommendation, together with that of the district manager, shall be transmitted to the State Director for consideration. A person appointed to fill a vacancy shall hold office for the remainder of the unexpired term. The wildlife representative will be appointed by the State Director for a term of office that does not exceed a fiscal year.

(48 Stat. 1270; 43 U.S.C. 315a)

STEWART L. UDALL,
Secretary of the Interior.

OCTOBER 2, 1962.

[F.R. Doc. 62-10022; Filed, Oct. 8, 1962; 8:46 a.m.]

Published in 27 F.R. October 9, 1962 - Effective 30th calendar day following this publication date.

Circular Distribution List

Repl. by C-2139

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular No. 2091]

PART 192—OIL AND GAS LEASES

Rentals

Section 192.80 is amended to read as follows:

§ 192.80 **Rentals.**

Rentals shall be payable in advance at the following rates:

(a) On noncompetitive leases issued on and after September 2, 1960, under section 17 of the act for lands which on the day on which the rental falls due lie wholly outside of the known geologic structure of a producing oil or gas field, or on which on the day on which the rental falls due the thirty days' notice period under paragraph (b)(1) of this section has not yet expired, an annual rental of 50 cents per acre or fraction thereof for each lease year.

(1) For the sixth and each succeeding year of a lease which issued prior to September 2, 1960, and in the State of Alaska of any lease whose initial term expired on or after July 3, 1958, rental shall be payable at the rate of 50 cents per acre or fraction thereof.

(2) For each year of the primary term of a lease which issued prior to September 2, 1960, rental shall be payable at the rate set forth in the lease.

(b) On leases wholly or partly within the known geologic structure of a producing oil or gas field:

(1) If issued noncompetitively under section 17 of the act, and not committed to a cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, beginning with the first lease year after the expiration of thirty days' notice to the lessee that all or part of the land is included in such a structure and for each year thereafter prior to a discovery of oil or gas on the leased lands, rental of $2 per acre or fraction thereof.

(2) If issued noncompetitively under section 17 of the act, and committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, the rental prescribed for the respective lease years in paragraph (a) of this section shall apply to the acreage not within a participating area.

(3) If issued competitively, an annual rental, prior to a discovery on the leased lands, of $2 per acre or fraction thereof, unless a different rate of rental is prescribed in the lease.

(c) On leases issued in any other way, an annual rental of $1 per acre or fraction thereof.

JOHN A. CARVER, Jr.,
Acting Secretary of the Interior.

OCTOBER 10, 1962.

[F.R. Doc. 62-10256; Filed, Oct. 15, 1962; 8:45 a.m.]

Published in 27 F.R. October 16, 1962

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SUBCHAPTER L—MINERAL LANDS

[Circular No. 2091]

PART 192—OIL AND GAS LEASES

Rentals

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Act of February 25, 1920 (41 Stat. 437), as amended (30 U.S.C., secs. 181–263), and section 2470 of the Revised Statutes (43 U.S.C. 1201), § 192.80 of Title 43 of the Code of Federal Regulations is amended as set forth below. The purpose of the amendment is to conform this section to the opinions rendered by the Associate Solicitor, Division of Public Lands, that the rentals for the extended terms of oil and gas leases in Alaska whose primary terms expired after July 3, 1958, must be at the rate of 50 cents per acre per annum and that the rental on noncompetitive leases which include lands situated on a known geologic structure and which are committed to a nonproducing unit plan shall be payable at the same rate as rental on noncompetitive leases not committed to any unit plan of operation.

Section 192.80 is amended to read as follows:

§ 192.80 Rentals.

Rentals shall be payable in advance at the following rates:

(a) On noncompetitive leases issued on and after September 2, 1960, under section 17 of the act for lands which on the day on which the rental falls due lie wholly outside of the known geologic structure of a producing oil or gas field, or on which on the day on which the rental falls due the thirty days' notice period under paragraph (b)(1) of this section has not yet expired, an annual rental of 50 cents per acre or fraction thereof for each lease year.

(1) For the sixth and each succeeding year of a lease which issued prior to September 2, 1960, and in the State of Alaska of any lease whose initial term expired on or after July 3, 1958, rental shall be payable at the rate of 50 cents per acre or fraction thereof.

(2) For each year of the primary term of a lease which issued prior to September 2, 1960, rental shall be payable at the rate set forth in the lease.

(b) On leases wholly or partly within the known geologic structure of a producing oil or gas field:

(1) If issued noncompetitively under section 17 of the act, and not committed to a cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, beginning with the first lease year after the expiration of thirty days' notice to the lessee that all or part of the land is included in such a structure and for each year thereafter prior to a discovery of oil or gas on the

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leased lands, rental of $2 per acre or fraction thereof.

(2) If issued noncompetitively under section 17 of the act, and committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, the rental prescribed for the respective lease years in paragraph (a) of this section shall apply to the acreage not within a participating area.

(3) If issued competitively, an annual rental, prior to a discovery on the leased lands, of $2 per acre or fraction thereof, unless a different rate of rental is prescribed in the lease.

(c) On leases issued in any other way, an annual rental of $1 per acre or fraction thereof.

JOHN A. CARVER, Jr.,
Acting Secretary of the Interior.

OCTOBER 10, 1962.

[F.R. Doc. 62-10256; Filed, Oct. 15, 1962; 8:45 a.m.]

This is an extra copy.

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

/Circular 2092/

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES, AND LICENSES

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191.2 Lands and deposits to which mineral leasing act does not apply.
191.3 Who may hold leases and permits.
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191.17 Limitation on time to institute suit to contest a Secretary's decision.
191.18 Oil and gas leases involved in proceedings under the Multiple Mineral Development Act of August 13, 1954.

ROYALTY AND RENTAL RELIEF; SUSPENSION OF OPERATIONS AND PRODUCTION

191.20 Waiver, suspension, or reduction of rental or minimum royalty or reduction of royalty on mineral leases.
191.21 Suspension of operations and production.
191.22 Applicability of relief.

[illegible]

[illegible] Access to Government [illegible] of its designee.

AUTHORITY: §§ 191.1 to 191.[illegible] issued under sec. 32, 41 Stat. 450, sec. 3, 58 Stat. 301, as amended; 30 U.S.C. 189, 271. Interpret or apply sec. 5, 64 Stat. 1068, as amended; 30 U.S.C. 285.

§ 191.1 *Purpose of the leasing acts.* The act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181 et seq.), as amended and supplemented, including the amendatory act of August 8, 1946 (60 Stat. 950; 30 U.S.C. sec. 181 et seq.) and the act of September 2, 1960 (74 Stat. 781; 30 U.S.C. sec. 181 et seq.), the act of February 7, 1927 (44 Stat. 1057; 30 U.S.C. 281–287) and the act of April 17, 1926 (44 Stat. 301; 30 U.S.C. 271–276) as amended, hereinafter called "the act", provide for the leasing of oil and gas, coal, potassium, sodium, phosphate, and oil shale, native asphalt, solid and semisolid bitumen, and bituminous rock including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried, and lands containing such deposits owned by the United States in the public domain and deposits of sulphur and the public lands containing such deposits in the States of Louisiana and New Mexico, except as stated in § 191.2.

§ 191.2 *Lands and deposits to which mineral leasing act does not apply.* The mineral leasing act does not apply (a) to lands containing the mineral deposits named in § 191.1 where such lands are situated in (1) national parks and monuments, (2) Indian reservations, (3) incorporated cities, towns and villages, or (4) naval petroleum and oil shale reserves; nor (b) to lands acquired under the act of March 1, 1911 (36 Stat. 961; 16 U.S.C. 513–519) known as the Appalachian Forest Reserve Act, or other acquired lands.

§ 191.3 *Who may hold leases and permits.* Mineral prospecting permits and mineral leases may be issued only to (a) citizens of the United States; (b) associations of such citizens; (c) corporations organized under the laws of the United States or of any State or Territory thereof; or (d) in the case of coal, oil, oil shale, or gas, municipalities. A mineral lease or permit will not be issued to a minor but oil and gas leases may be issued to legal guardians or trustees of minors in their behalf.

§ 191.4 *Rights of aliens.* Aliens may not acquire or hold any direct or indirect interest in permits or leases, except that they may own or control stock in corporations holding permits or leases, if the laws of their country do not deny similar or like privileges to citizens of the United States. A corporation is required to file a certified copy of its articles of incorporation, and it must furnish a statement showing the percentage of each class of its stock, and the percentage of all of its stock, which is owned or controlled by or on behalf of persons whom the corporation knows to be or who the corporation has reason to believe are aliens, or who have addresses outside of the United States, indicating which classes of stock have voting rights. If more than 10 percent of the voting stock, or of all the stock, is owned or controlled by or on behalf of such persons, the corporation must also furnish names and addresses, the amount and class of stock held by each, and, to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each such person. If any appreciable percentage of the stock of the corporation is held by aliens of the excepted class, the application will be denied.

§ 191.5 *Reserved or segregated lands.* With respect to lands embraced in a reservation or segregated for any particular purpose the lessee shall conduct operations in conformity with such requirements as may be made by the Bureau of Land Management for the protection and use of the land for the purpose for which it was reserved or segregated, so far as may be consistent with the use of the land for the purpose of the lease, which latter shall be regarded as the dominant use unless otherwise provided or separately stipulated.

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

/Circular 2092/

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES, AND LICENSES

GENERAL PROVISIONS

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191.1 Purpose of the leasing acts.
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191.15 Bona fide purchasers of leases and interests subject to cancellation or forfeiture.
191.16 Limitation on time to institute suit to contest a Secretary's decision.
191.17 Oil and gas leases involved in proceedings under the Multiple Mineral Development Act of August 13, 1954.

ROYALTY AND RENTAL RELIEF; SUSPENSION OF OPERATIONS AND PRODUCTION

191.25 Waiver, suspension, or reduction of rental or minimum royalty or reduction of royalty on mineral leases.
191.26 Suspension of operations and production.
191.27 Applicability of relief.

LEASING OF MINERALS DEVELOPED BY GOVERNMENTAL AGENCY TO AID IN PROSECUTING WORLD WAR II

191.40 Leases to Governmental agency or its assigns.

AUTHORITY: §§ 191.1 to 191.40 issued under sec. 32, 41 Stat. 450, sec. 1, 44 Stat. 301, as amended; 30 U. S. C. 189, 271. Interpret or apply sec. 5, 44 Stat 1058, as amended; 30 U. S. C. 285.

§ 191.1 Purpose of the leasing acts.

The act of February 25, 1920 (41 Stat. 437; 30 U.S.C., 181 et seq.), as amended and supplemented, including the amendatory act of August 8, 1946 (60 Stat. 950; 30 U.S.C., sec. 181 et seq.) and the act of September 2, 1960 (74 Stat. 781; 30 U.S.C., sec. 181 et seq.), the act of February 7, 1927 (44 Stat. 1057; 30 U.S.C., 281–287) and the act of April 17, 1926 (44 Stat. 301; 30 U.S.C., 271–276) as amended, hereinafter called "the act", provide for the leasing of oil and gas, coal, potassium, sodium, phosphate, and oil shale, native asphalt, solid and semisolid bitumen, and bituminous rock including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried, and lands containing such deposits owned by the United States in the public domain and deposits of sulphur and the public lands containing such deposits in the States of Louisiana and New Mexico, except as stated in § 191.2.

§ 191.2 *Lands and deposits to which mineral leasing act does not apply.* The mineral leasing act does not apply (a) to lands containing the mineral deposits named in § 191.1 where such lands are situated in (1) national parks and monuments; (2) Indian reservations; (3) incorporated cities, towns and villages, or (4) naval petroleum and oil shale reserves; nor (b) to lands acquired under the act of March 1, 1911 (36 Stat. 961; 16 U. S. C. 513–519) known as the Appalachian Forest Reserve Act, or other acquired lands.

§ 191.3 *Who may hold leases and permits.* Mineral prospecting permits and mineral leases may be issued only to (a) citizens of the United States; (b) associations of such citizens; (c) corporations organized under the laws of the United States or of any State or Territory thereof; or (d) in the case of coal, oil, oil shale, or gas, municipalities. A mineral lease or permit will not be issued to a minor but oil and gas leases may be issued to legal guardians or trustees of minors in their behalf.

§ 191.4 *Rights of aliens.* Aliens may not acquire or hold any direct or indirect interest in permits or leases, except that they may own or control stock in corporations holding permits or leases, if the laws of their country do not deny similar or like privileges to citizens of the United States. A corporation is required to file a certified copy of its articles of incorporation and it must furnish a statement showing the percentage of each class of its stock, and the percentage of all of its stock, which is owned or controlled by or on behalf of persons whom the corporation knows to be or who the corporation has reason to believe are aliens, or who have addresses outside of the United States, indicating which classes of stock have voting rights. If more than 10 percent of the voting stock, or of all the stock, is owned or controlled by or on behalf of such persons, the corporation must give their names and addresses, the amount and class of stock held by each, and, to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each such person. If any appreciable percentage of the stock of the corporation is held by aliens of the excepted class, its application will be denied.

§ 191.5 *Reserved or segregated lands.* With respect to lands embraced in a reservation or segregated for any particular purpose the lessee shall conduct operations in conformity with such requirements as may be made by the Bureau of Land Management, for the protection and use of the land for the purpose for which it was reserved or segregated, so far as may be consistent with the use of the land for the purpose of the lease, which latter shall be regarded as the dominant use unless otherwise provided or separately stipulated.

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§ 191.6 *Special stipulations for lands where surface control is under jurisdiction of the Department of Agriculture or for lands in reclamation, or power site withdrawals or reservations, or Federal wildlife lands.* **Offerors for noncompetitive oil and gas leases and applicants for permits, leases, and licenses for lands, the surface control of which is under the jurisdiction of the Department of Agriculture, will be required to consent to the inclusion therein of the stipulation on Form 4–216. Where the lands have been withdrawn for reclamation purposes the offeror or applicant will be required to consent to the inclusion of a stipulation on Form 4–467 if the land is potentially irrigable, or Form 4–467 (a) if the land is within the flow limits of a reservoir site, or Form 4–467 (b) if the land is within the drainage area of a constructed reservoir, or if withdrawn for power purposes, Form 4–1223. Where the lands have been withdrawn as Game Range Lands, Coordination Lands, or Alaska Wildlife Areas, as defined in § 192.9, the offeror or applicant will be required to consent to the inclusion of a stipulation on Form 4–1383. Additional conditions may be imposed to protect the land withdrawn if deemed necessary by the agency having jurisdiction over the surface.**

§ 191.7 *Multiple development or other disposition of land.* The granting of a permit or lease for the prospecting, development, or production of deposits of any one mineral will not preclude the issuance of other permits or leases for the same land for deposits of other minerals with suitable stipulations for simultaneous operation, nor the allowance of applicable entries, locations, or selections of the leased lands with a reservation of the mineral deposits to the United States.

§ 191.8 *Interests held in common.* An association shall not be deemed to exist between the parties to a contract for development of leased lands, whether or not coupled with an interest in the lease, nor between co-lessees, but each party to any such contract or each co-lessee will be charged with his proportionate interest in the lease. No holding of acreage in common by the same persons in excess of the maximum acreage specified in the law for any one lessee or permittee for the particular mineral deposit so held will be permitted.

§ 191.9 *Survey of lands for leasing.* Unsurveyed lands containing oil shale, and unsurveyed lands embraced in applications for lease based upon discovery of valuable deposits of potassium, sodium or sulphur under a prospecting permit, must be surveyed by the Government at the expense of the applicant prior to the issuance of a lease of the lands. To secure such a survey, the applicant must obtain from the appropriate cadastral engineer an estimate of the cost of the survey and deposit with him the estimated amount. After the survey has been accepted and the plat filed in the land office the application will be adjusted to the resulting subdivisions and the cost of the survey will be ascertained by prorating the total cost of surveying the township to the area to be leased. The amount thus ascertained will be credited to the appropriation for surveying the public lands and the balance of the deposit, if any, returned to the depositor or his authorized representative. The survey of unsurveyed lands for any coal lease, or for a competitive lease for phosphate, potassium, sodium, oil, or gas, or sulphur will be made at the expense of the Government prior to the issuance of a lease of the lands.

§ 191.10 Simultaneous applications or offers for lease.

(a) Where applications or offers received by mail or filed over the counter at the same time are in conflict the right of priority of filing will be determined by public drawing in the manner provided in § 295.8(b) of this chapter.

(b) The priorities of all applications or offers to lease made and filed in accordance with the provisions of § 192.43 of this chapter, whether or not they are in conflict, will be determined by public drawing in the manner provided in § 295.8 of this chapter.

§ 191.11 *Filing fees.* **Offers for noncompetitive oil and gas leases and all applications for prospecting permits, leases or licenses, excepting licenses to relief agencies as provided in § 193.30 of this chapter, must be accompanied by a filing fee of $10 for each application or offer. Such a fee will be retained as a service charge even though the application or offer should be rejected or withdrawn in whole or in part.**

§ 191.12 *Payment of rentals.* (a) Unless otherwise directed by the Secretary, rentals and royalties under all leases and permits issued under the act shall be paid to the Manager of the land office in the State in which the lands are located or, if there is no land office in such State, to the Director, Bureau of Land Management, Washington 25, D. C., except that for lands in the following States, payments must be made in the land office named herein; North or South Dakota, the land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma, at Santa Fe, New Mexico. All remittances to Bureau of Land Management offices shall be made payable to the Bureau of Land Management.

(b) All rentals and royalties on producing oil and gas leases, communitized leases in producing well units, unitized leases in producing unit areas, leases on which compensatory royalty is payable, and all payments under subsurface storage agreements and easements for directional drilling are to be paid to the Regional Oil and Gas Supervisor of the United States Geological Survey. Rentals and royalties on producing mining leases are to be paid to the Regional Mining Supervisor. All remittances to Survey offices shall be made payable to the United States Geological Survey.

§ 191.13 *Bonds with individual sureties.* **Where surety bonds are tendered with individuals as sureties they must be executed by not less than two qualified individual sureties to cover compliance with all terms and conditions of the lease or permit or the applicable law or regulations. Each surety must execute a statement showing that he is worth in real property not exempt from execution, double the sum specified in the undertaking, over and above his just debts and liabilities and that he is either a resident of the same State and the United States Judicial District as the principal on the bond, or of the State and the Judicial District in which the lands involved are located. There also must be furnished a certificate by a judge or clerk of a court of record, a United States attorney, a United States Commissioner, or a United States postmaster, as to the identity, signature, and financial competency of the sureties. All bonds furnished with individual sureties will be examined every two years, or at any other time when found advisable, and the principal on the bond will be required to furnish new statements of justification by the sureties and a new certificate of financial competency, and if such sureties are unable to qualify additional security will be required. The statement of justification required to be furnished by the sureties, and the certificate of competency should be on Form 4–215.**

§ 191.14 *Reinstatement of rejected applications for lands restored from withdrawal or use for war purposes.* Hereafter, upon publication of a revocation of a withdrawal or of a use permit made or granted in connection with the prosecution of World War II, a mineral permit or lease applicant whose application was rejected solely because of the subsequent withdrawal of the land for use in connection with the prosecution of the war or because, either before or after the application was filed, a permit was granted to use the land for war purposes, may apply for and obtain a reinstatement of his application. If the application for reinstatement is for lands restored from a withdrawal it must be filed prior to the date fixed for the filing of applications by the general public; if for land affected by the revocation of permits, within 60 days from the date of publication of such revocation. No application for reinstatement will be considered unless it is timely filed and accompanied by the proper filing fee and the full amount of the first year's rental.

§ 191.15 Bona fide purchasers of leases and interests subject to cancellation or forfeiture.

(a) The Act of September 21, 1959 (73 Stat. 571), as amended by the Act of September 2, 1960 (74 Stat. 781; Public Law 86–705), provides that the right to cancel or forfeit for violation of any of the provisions of this Act shall not apply so as to affect adversely the title or interest of a bona fide purchaser of any lease, option to acquire a lease or an interest therein, or permit which lease,

interest, option, or permit was acquired and is held by a qualified person, association, or corporation in conformity with those provisions, even though the holdings of the person, association, or corporation from which the lease, interest, option, or permit was acquired, or of his predecessor in title (including the original lessee of the United States) may have been cancelled or forfeited or may be or may have been subject to cancellation or forfeiture for any such violation.

(b) If in any proceeding to cancel or forfeit a lease, interest in a lease, option to acquire a lease or an interest therein or a permit acquired in violation of any of the provisions of this Act, an underlying lease, interest, option, or permit is cancelled or forfeited to the Government and there are valid interests therein or valid options to acquire the lease or an interest therein which are not subject to cancellation, forfeiture, or compulsory disposition, such underlying lease interest, option, or permit shall be sold to the highest responsible, qualified bidder by competitive bidding in a manner similar to that provided for in the offering of leases by competitive bidding subject to all outstanding valid interests therein and valid options pertaining thereto. However, if less than the whole interest in the lease, interest, option, or permit is cancelled or forfeited, such partial interests shall likewise be sold in similar manner. If no satisfactory offer is obtained as a result of the competitive offering of such whole or partial interests, such interests may be sold by such other method as the authorized officer deems appropriate, but on terms not less favorable to the Government than those of the best competitive bid received.

(c) The commencement and conclusion of all such proceedings shall be noted promptly upon the serial register relating to the particular lease or option or other interest involved.

(d) Effective as of September 21, 1959, any party to any proceeding with respect to a violation of any provision of the Act, whether initiated prior or subsequent to that date, has the right to be dismissed promptly as such a party by showing that he holds and acquired the interest involving him as a bona fide purchaser without having violated any provisions of the Act. No hearing shall be necessary upon such showing unless prima facie evidence is presented to indicate a possible violation on the part of the alleged bona fide purchaser.

(e) If during any such proceeding a party thereto files a waiver of his rights under his lease to drill or to assign his interest thereto, or if such rights are suspended by order of the Secretary pending a decision, payment of rentals and the running of time against the term of the lease or leases involved shall be suspended as of the first day of the month following the filing of the waiver or the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver for suspension.

§ 191.16 Limitation on time to institute suit to contest a Secretary's decision.

No action contesting a decision of the Secretary involving any oil and gas lease shall be maintained unless such action is commenced or taken within 90 days after the final decision of the Secretary relating to such matter.

§ 191.17 Oil and gas leases involved in proceedings under the Multiple Mineral Development Act of August 13, 1954.

If any oil and gas lease issued under Section 17 of the Mineral Leasing Act, as amended (30 U.S.C. sec. 226) includes an area with respect to which a verified statement is filed by a mining claimant under section 7(c) of the Multiple Mineral Development Act of 1954 (68 Stat. 708) as amended, asserting the existence of a conflicting unpatented mining claim or claims upon which diligent work is being prosecuted the payment of rentals and the running of time under such lease shall be suspended as to the lands in conflict from the first day of the month following the filing of such verified statement until a final decision is rendered in the matter.

ROYALTY AND RENTAL RELIEF; SUSPENSION OF OPERATIONS AND PRODUCTION

§ 191.25 *Waiver, suspension, or reduction of rental or minimum royalty or reduction of royalty on mineral leases.* (a) In order to encourage the greatest ultimate recovery of coal, phosphate, potassium, sodium, oil shale, oil, or gas and sulphur, and in the interest of conservation, the Secretary of the Interior whenever he determines it necessary to promote development or finds that the leases cannot be successfully operated under the terms provided therein may waive, suspend, or reduce the rental or minimum royalty or reduce the royalty on an entire leasehold, or on any deposit, tract, or portion thereof segregated for royalty purposes.

(b) An application for any of the above benefits shall be filed in triplicate in the office of the oil and gas supervisor for oil and gas leases or the office of the mining supervisor for coal, phosphate, potassium, sodium, oil shale and sulphur leases. It must contain the serial number of the leases, the land office name, the name of the record title holder and operator or sublessee and the description of the lands by legal subdivision.

(1) Each application involving oil or gas shall show the number, location, and status of each well that has been drilled, a tabulated statement for each month covering a period of not less than six months prior to the date of filing the application of the aggregate amount of oil or gas subject to royalty computed in accordance with the oil and gas operating regulations, the number of wells counted as producing each month, and the average production per well per day.

(2) Each application involving coal, phosphate, potassium, sodium, oil shale and sulphur shall show the number and location of each mine, a map showing the extent of the mining operations, a tabulated statement of the minerals mined and subject to royalty for each month covering a period of not less than 12 months next prior to the date of filing of the application, and the average production per day mined for each month and complete information as to why the minimum production was not attained.

(c) Every application must contain a detailed statement of expenses and costs of operating the entire lease, the income from the sale of any leased products, and all facts tending to show whether the wells or mines can be successfully operated upon the royalty or rental fixed in the lease. Where the application is for a reduction in royalty full information shall be furnished as to whether royalties or payments out of production are paid to others than the United States, the amounts so paid and efforts made to reduce them. The applicant must also file agreements of the holders of the lease and of the royalty holders to a permanent reduction of all other royalties from the leasehold to an aggregate not in excess of one-half the Government royalties.

§ 191.26 *Suspension of operations and production.* (a) Applications by lessees for relief from the producing requirements or from all operating and producing requirements of mineral leases shall be filed in triplicate in the office of the regional oil and gas supervisor for oil and gas leases, and in the office of the regional mining supervisor for all other leases.[1] As to oil and gas leases, no suspension of operations and production will be granted on any lease in the absence of a well capable of production on the leasehold, except where the Secretary directs a suspension in the interest of conservation. Complete information must be furnished showing the necessity for such relief.

(b) The term of any lease will be extended by adding thereto any period of suspension of all operations and production during such term pursuant to any direction or assent of the Secretary.

(c) A suspension shall take effect as of the time specified in the direction or assent of the Secretary. Rental and minimum royalty payments will be suspended during any period of suspension of all operations and production directed or assented to by the Secretary, beginning with the first day of the lease month on which the suspension of operations and production becomes effective or, if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of rental and minimum royalty payments shall end on the first day of the lease month in which operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit will be allowed on the next rental or royalty due under the lease.

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[1] By Departmental Order No. 2699 and Geological Survey Order No. 218 of August 11, 1952, the regional oil and gas supervisors and the regional mining supervisors are authorized to act on applications for suspension of operations or production or both filed pursuant to this section and to terminate suspensions of this kind which have been or may be granted.

(d) No lease shall be deemed to expire by reason of a suspension of either operations or production only, pursuant to any direction or assent of the Secretary.

(e) If there is a well capable of producing on the leased premises and all operations and production are suspended pursuant to any direction or assent of the Secretary, the commencement of drilling operations only will be regarded as terminating the suspension as to operations but not as to production, and as terminating the period of suspension to be added to the term of the lease as provided in paragraph (b) of this section and the period of suspension of rental and minimum royalty payments as provided in paragraph (c) of this section. However, as provided in paragraph (d) of this section, the term of the lease will not be deemed to expire so long as the suspension of operations or production remains in effect.

(f) The minimum annual production requirements of a lease issued under the act for coal, phosphate, potassium, sodium, oil shale or sulphur shall be proportionately reduced for that portion of a lease year for which suspension of operations and production is directed or granted by the Secretary of the Interior in the interest of conservation.

§ 191.27 *Applicability of relief.* The relief authorized under §§ 191.25 and 191.26 may also be obtained for any oil and gas leases included within an approved unit or cooperative plan of development and operation.

LEASING OF MINERALS DEVELOPED BY GOVERNMENTAL AGENCY TO AID IN PROSECUTING WORLD WAR II

§ 191.40 *Leases to Governmental agency or its assigns.* Except as otherwise provided by law, any mineral deposits (other than for oil and gas) and public lands containing such deposits which are subject to disposition under the provisions of the act, the production from which has been used by any Federal agency in connection with the prosecution of World War II, may be leased to the agency controlling the facilities using such production, or to any purchaser or lessee of such facilities, by negotiation, or by requiring the agency, its purchaser or lessee to meet the highest competitive bid received under sealed bids for such lease.

This Circular replaces Circulars 1781, 1821, 1894, 1912, 1924, 2000, 2060, 2077, and those portions of Circulars 2032 and 2082 relating to 43 CFR Part 191.

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER [illegible]—SALE, [illegible], OR USE, AND ACQUISITIONS

[Circular No. [illegible]]

PART [illegible]—SALES AND OTHER DISPOSITIONS OF LANDS TO [illegible] CLAIMANTS OF UNPATENTED MINING CLAIMS

[illegible]

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[illegible] Distribution List

(d) No lease shall be deemed to expire by reason of a suspension of either operations or production only, pursuant to any direction or assent of the Secretary.

(e) If there is a well capable of producing on the leased premises and all operations and production are suspended pursuant to any direction or assent of the Secretary, the commencement of production operations only will be regarded as terminating the suspension of operations pursuant to production, and as terminating the period of suspension to be added to the term of the lease as provided in paragraph (b) of this section and the period of suspension of rental and minimum royalty payments as provided in paragraph (c) of this section. However, as provided in paragraph (d) of this section, the term of the lease will not be deemed to expire so long as the suspension of operations or production remains in effect.

(f) The minimum annual production requirements of a lease issued under the act for coal, phosphate, potassium, sodium, oil shale or sulphur shall be proportionately reduced for that portion of a lease year for which suspension of operations and production is directed or granted by the Secretary or his delegate in the interest of conservation.

§ 191.27 *Applicability of relief.* The relief authorized under §§ 191.25 and 191.26 may also be obtained for any oil and gas lease included within an approved unit or cooperative plan of development and operation.

LEASES OF MINERAL DEPOSITS BY GOVERNMENTAL AGENCY IN AID OF PROSECUTION, WORLD WAR II

§ 191.40 *Leases to Governmental agency or its nominee.* Except as otherwise provided by law, any mineral deposits (other than for oil and gas) and public lands containing such deposits which are subject to disposition under the provisions of the act, the production from which has been used by any Federal agency in connection with the prosecution of World War II, may be leased to the agency controlling the facilities using such production, or to any purchaser or lessee of such facilities, by assignment, or by requiring the successful purchaser or lessee to [illegible] the [illegible] [illegible] [illegible] under [illegible] bids for such lease.

This Circular replaces Circulars 1791, 1821, 1886, 1913, 1936, 2000, 2060, 2077, and those portions of Circulars 2013 and 2064 relating to 43 CFR Part 191.

Repl. by C-2175

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

[Circular No. 2093]

PART 260—SALES AND OTHER DISPOSITION OF LANDS TO RESIDENTIAL OCCUPANTS OF UNPATENTED MINING CLAIMS

Sec.

260.1 Statutory authority.
260.2 Definitions.
260.3 Program.
260.4 Petitions.
260.5 Applications.
260.6 Offers to convey an interest in the lands applied for.
260.7 Offers of alternate tracts.

AUTHORITY: §§ 260.1 to 260.7 issued under Act of October 23, 1962 (76 Stat. 1127) and 43 U.S.C. 2, 1201, 1371.

§ 260.1 Statutory authority.

(a) The Act of October 23, 1962 (76 Stat. 1127), hereinafter referred to as "the Act", authorizes the Secretary of the Interior, in his discretion, to convey to any qualified applicant who is an occupant of an unpatented mining claim which is determined by the Secretary to be invalid, an interest, up to and including a fee simple, in and to an area within the claim of not more than (1) five acres, or (2) the acreage actually occupied by him, whichever is less. The Act permits the Secretary to make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all right in and to such claim which he may have under the mining laws. Such conveyances may be made only to a qualified applicant who applies therefor within 5 years from October 23, 1962, and upon payment of an amount established in accordance with the Act.

(b) The Act further provides that when the qualified applicant applies for lands which have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may convey an interest therein only with the consent of the head of the governmental unit concerned and under such terms and conditions as said head may deem necessary. Where such consent is not given, the Act permits the Secretary, after arrangements satisfactory to the Secretary have been made for termination of the applicant's occupancy of his unpatented mining claim and for settlement of any liability for the unauthorized use thereof which may have been incurred, to grant the applicant a right to purchase, for residential use, an interest in another tract made available by him for sale under the Act (1) from unappropriated and unreserved lands of the United States or (2) from lands subject to classification under Section 7 of the Taylor Grazing Act (48 Stat. 1272, 43 U.S.C. 315f), as amended, said right to expire within 5 years from the date on which it is granted, unless sooner exercised.

(c) The Act requires the Secretary, prior to any conveyance under the Act, to determine the fair market value, as of the date of appraisal, of the interest to be conveyed exclusive of the value of any improvements placed on the lands by the applicant or his predecessors in interest. It also requires him, in establishing the purchase price to be paid by the applicant, to take into consideration any equities of the applicant and his predecessors in interest, including conditions of prior use and occupancy, the price never to exceed its fair market value nor to be less than $5 per acre and to be payable, in the discretion of the Secretary, in a lump sum or in installments.

(d) The Act provides that all conveyances thereunder shall reserve to the United States all mineral interests of the United States in the lands conveyed for the term of the estate. It withdraws from all forms of entry and appropriation, for the term of the estate conveyed, reserve minerals locatable under the mining laws or disposable under the Act of July 31, 1947 (61 Stat. 681, 30 U.S.C. 601–604, as amended). It permits the Secretary to lease, under the mineral leasing laws, reserved oil, gas, and other leasable minerals for exploration and development purposes, but without the right of surface ingress or egress.

(e) The Act provides that the execution of any conveyance thereunder does not relieve an applicant of any liability, existing on the date of the conveyance, to the United States, for unauthorized use of the land in and to which an interest is granted. However, it provides that, with respect to persons who file applications for conveyance pursuant to the Act within 5 years of October 23, 1962, trespass charges shall not be sought or collected from any qualified applicant who has filed an application for land in the mining claim pursuant to the Act, based upon occupancy of such claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary or the voluntary relinquishment of the mining claim, whichever occurs earlier, provided that the mining claim embracing the land applied for was not located at a time when the land included therein was withdrawn or otherwise not subject to location.

(f) The Act provides that any conveyance of less than a fee made under the Act shall include provision for removal from the tract of any improvements or other property of the applicant at the close of the period for which the conveyance is made, or if it be an interest terminating on the death of the applicant, within one year thereafter.

§ 260.2 Definitions.

As used in the Act and the regulations of this part:

(a) The term "qualified applicant" means (1) a residential occupant-owner, as of October 23, 1962, of valuable improvements in an unpatented mining claim which constitute for him a principal place of residence and which he and his predecessors in interest were in possession of for not less than seven years prior to July 23, 1962 or (2) the heirs or devisees of such a residential occupant-owner.

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Circular Distribution List

(b) The term "occupant-owner" refers to persons who, on October 23, 1962, claimed title to valuable improvements which they or their predecessors in interest have constructed on an unpatented mining claim even though title to the improvements might ultimately be found to be in the Government.

(c) The term "interest" includes any estate in lands, including, but not limited to, fee simple, life estate, estate for a term of years, lease, or permit.

(d) The term "a principal place of residence" means an improved site used by a qualified applicant as one of his principal places of residence except during periods when weather and topography may make it impracticable for use. The term does not mean a site given casual or intermittent residential use, such as for a hunting cabin or for weekend occupancy.

(e) The term "qualified officer of the United States" means the Secretary of the Interior or his designate within the Department of the Interior or, with respect to lands within the administrative jurisdiction of any other department or agency, the designate of the head of that department or agency under authority delegated to him by the Secretary of the Interior.

(f) The word "equities" is intended to include for consideration such things as the pecuniary situation of the applicant, his ability to pay, whether he previously paid market value for the property, the date when the mining claim was first staked, whether there are substantial reasons to believe that a concerted effort was made to develop and extract the minerals sought as compared to a casual attempt, whether such minerals were actually extracted and the deposit depleted, and whether the applicant was relying on custom in his occupancy. The word "equities" does not include any payments of real property taxes, public benefit assessments, or any other public service charges.

§ 260.3 Program.

(a) The program of the Secretary of the Interior in the administration of the Act is to grant to qualified applicants maximum tenure consistent with the public interest in the lands which they occupy. Where the public interest does not permit sale of a fee simple interest, the period of tenure granted will ordinarily not terminate until the land is needed for a public program, provided that, where paragraph (b) of § 260.1 is applicable, tenure shall also be consistent with the terms and conditions specified by the agency or department in aid of whose function the lands are used. The right to purchase an alternate tract will ordinarily be granted a qualified applicant where the consent mentioned in paragraph (b) of § 260.1 is required but not given and the other requirements of that paragraph are satisfied.

(b) In determining the price for the interest to be conveyed under the Act, the Secretary of the Interior will weigh and evaluate the equities claimed by the applicant and will also give consideration to other equities which his investigation may reveal.

§ 260.4 Petitions.

Any person who holds a mining claim which has not been invalidated and who wishes to determine whether he should make application under the Act, may petition, in writing, any qualified officer of the United States[1] to state whether or not he believes the claim to be invalid. The petition must be accompanied by a nonrefundable petition service fee of $5. Such a petition will not be considered an admission of the invalidity of a claim. The petition should include the name and post office address of the claimant, the name, location and legal description of the mining claim or references sufficient to identify the land on the ground, the date of the location, date and place of recordation and claim of title, a description, including dates, of improvements placed on the lands, and a request for a statement of belief as to the invalidity of the claim.

§ 260.5 Applications.

(a) Applicants must file applications on or before October 23, 1967, in the proper land office in the State in which the lands are located, or if the lands are in a State in which there is no land office, with the Bureau of Land Management, Washington 25, D.C., except that applications for lands in North Dakota or South Dakota must be filed in the land office at Billings, Montana; applications for lands in Nebraska must be filed in the land office at Cheyenne, Wyoming.

(b) A filing fee of $10 which is not returnable is required, and should accompany the application.

(c) No particular form of application is required but the application must be typewritten or in legible handwriting and should contain the following information:

(1) Name and post office address of the applicant.

(2) Location of the mining claim by legal or other description sufficient to permit ready, accurate identification of the lands on the ground.

(3) Date of location of mining claim, name of claim, date and place of recordation, and chain of title.

(4) A description of the improvements placed upon the lands involved, and a statement showing that a residence had been on the claim since prior to July 23, 1955.

(5) A statement as to ownership and possession of the improvements during the period beginning with July 23, 1955, through October 23, 1962, including the name or names of any predecessors in interest during said period.

(6) Reference to the Act of October 23, 1962 (76 Stat. 1127).

(7) The date the mining claim was determined to be invalid or the date the claim was relinquished to the United States.

(8) A statement of the interest in lands which the applicant desires, such as "fee title," "lease," or "life estate."

(9) A statement of any equities which the applicant feels should be considered in establishing the purchase price.

(10) A description of the lands, not to exceed 5 acres, claimed to be actually occupied.

§ 260.6 Offers to convey an interest in the lands applied for.

Where the authorized officer determines that an interest in the lands applied for can be conveyed, he will submit to the applicant an offer to convey, specifying the term of the estate offered, the conditions precedent which must be met before conveyance may be made, the limitations and reservations to be contained in the conveyance, the price to be paid, the cost of survey, if any, the conditions subsequent to be performed by the applicant, and the time within which the offer must be accepted (see § 260.1).

§ 260.7 Offers of alternate tracts.

(a) Where the authorized officer determines that an interest in the lands sought cannot be conveyed, he will so notify the applicant, giving his reasons therefor.

(b) Where the authorized officer determines that the conveyance of an interest in lands is otherwise justified but that the interests cannot be conveyed because the consent mentioned in paragraph (b) of § 260.1 is not given, and he determines further that it would be proper to grant the applicant the right to select an alternate tract under the Act, he will advise that if satisfactory arrangements are made for termination of the occupancy of the unpatented mining claims and for settlement of any liability for unauthorized use thereof which may have been incurred, he will grant the applicant the right to select and purchase within 5 years an alternate tract from lands available or to be made available under the Act. The first applicant to select an available tract will have a preference right to purchase it at the price and under the terms set by the authorized officer, including a limitation on the time within which the applicant may purchase the tract selected.

STEWART L. UDALL,
Secretary of the Interior.

DECEMBER 10, 1962.

[F.R. Doc. 62-12322; Filed, Dec. 12, 1962; 8:49 a.m.]

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[1] Until further notice, the qualified officer is the State Director of the Bureau of Land Management having jurisdiction over public lands in the State in which the mining claim is located. In States for which there is no State Director, the Director, Bureau of Land Management, is the qualified officer.

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

[Circular 2094]

PART 257—SALE OR LEASE OF SMALL TRACTS

Applications

1. Section 257.5 is amended to read as follows:

§ 257.5 Preference rights of applicants.

Where public land is classified pursuant to a validly filed application on Form 4-776, accepted for unclassified lands open to application under the regulations of this part (see subparagraph (4) of paragraph (e) of § 257.6), the applicant is entitled to a preference right of lease or purchase, as the case may be, if (a) the land is thereafter classified for the type of site applied for; (b) the applicant agrees to conform his application to the area, classification, and dimensions of the tract as specified in the classification order; and (c) where the land is classified for direct sale, the applicant tenders the fair market value of the land when required.

2. Subparagraph (4) of paragraph (e) of § 257.6 is amended to read as follows:

§ 257.6 Application; general procedure.

* * * * *

(4) The lands applied for are not open to application pursuant to a notice published in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

JANUARY 18, 1963.

[F.R. Doc. 63-836; Filed, Jan. 24, 1963; 8:47 a.m.]

Published in 28 F.R. January 25, 1963 - Effective 30th calendar day following this publication date.

Circular Distribution List

FEDERAL REGISTER

VOLUME 28 NUMBER 20

Tuesday, January 29, 1963

This has been Replaced by Circular 2098

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2095]

PART 250—PUBLIC SALES

Effect of Application and Award of Bid

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 2478 of the Revised Statutes (43 U.S.C. 1201), Part 250 is hereby amended. The purpose of this amendment is to inform the public that the Government will reserve the right to reject any and all bids received at any public sale of lands prior to issuance of final certificate, and also that the person who is declared by the authorized officer to be the purchaser shall be bound by his bid and the regulations in this part to complete the purchase in accordance therewith unless his bid is rejected or he is released therefrom by the authorized officer.

§ 250.5 Effect of application and award of bid.

(a) The filing of an application in conformity with the regulations in this part will not segregate the lands applied for from other applications under the public land laws or defeat a prior valid right initiated under any such law.

(b) Until the issuance of a cash certificate, the authorized officer may at any time determine that the lands should not be sold: *Provided*, That if the high bid is not less than the fair market value of the land on the date of sale, as such date is specified in the public notice, appreciation or depreciation in value of the lands thereafter will not alone be a basis for such determination. All public notices of offers at public sale of lands under the regulations of any part of this chapter will reserve the right of the authorized officer to reject any and all bids prior to the time of issuance of final certificate for the lands. Sales will not be consummated when, for example:

(1) Circumstances reveal that the highest bid otherwise acceptable is less than the fair market value of the land on the date of the sale set in the public notice thereof, or

(2) An appropriate public requirement for the lands is identified subsequent to the public notice, or

(3) Collusive or other activities have hindered or restrained free and open bidding.

The applicant or any bidder has no contractual or other rights as against the United States, and no action taken will create any contractual or other obligation of the United States until the cash certificate is issued.

(c) The person who is declared by the authorized officer to be the purchaser shall be bound by his bid and the regulations in this part to complete the purchase in accordance therewith unless his bid is rejected or he is released therefrom by the authorized officer.

Effective upon publication in the FEDERAL REGISTER.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

JANUARY 24, 1963.

[F.R. Doc. 63-928; Filed, Jan. 28, 1963; 8:48 a.m.]

Replaced by:
C-2154
C-2155
C-2157

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2096]

PART 193—COAL LEASES, PERMITS AND LICENSES

PART 194—POTASSIUM PERMITS AND LEASES

PART 196—PHOSPHATE LEASES, PROSPECTING PERMITS AND USE PERMITS

Miscellaneous Amendments

1. Paragraph (a) of § 193.2 is amended to read as follows:

§ 193.2 Acreage limitations on holdings; applications for additional acreage; segregation of coal deposits; public hearings.

(a) Except where the rule of approximation[1] applies, a permit or lease may not exceed 2,560 acres. A permit shall include contiguous tracts, or tracts in reasonably compact form. A lease shall include contiguous tracts, except in cases where noncontiguous tracts can be efficiently worked as a single mine or unit. Except as hereinafter stated, no person, association, or corporation may hold at one time coal leases or permits exceeding 10,240 acres in any one state, whether directly through the ownership of such leases and permits, or interests therein, and applications therefor, or indirectly as a member of an association or as a stockholder of a corporation holding such leases and permits, or interests therein, and applications therefor. In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease or permit shall be such party's proportionate part of the total lease and permit acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage except that no person shall be charged with his pro rata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than ten percent of the stock or other instruments of ownership or control of such association or corporation.

§ 193.10 [Amendment]

2. Footnote 1 referred to in § 193.10 is renumbered Footnote 2.

3. Paragraph (b) of § 193.11 is amended to read as follows:

§ 193.11 Application for lease.

* * * * *

(b) All applications must be signed by the applicant or his attorney-in-fact, and if executed by an attorney-in-fact must be accompanied by the power of attorney and the applicant's own statement as to his citizenship and acreage holdings unless the power of attorney specifically authorized and empowers the attorney-in-fact to make such statement or to execute all statements which may be required under these regulations. Where such power of attorney has been filed in the same land office where the application is filed reference thereto by serial number of the record in which it has been filed may be made upon the filing of subsequent applications. Applications on behalf of a corporation must be accompanied by proof of the signing officer's authority to execute the instrument.

4. Section 193.21 is amended to read as follows:

§ 193.21 Application for permit; permit rental.

An application for a permit must be filed in duplicate in the office specified in § 193.11. Each application must be accompanied by a filing fee of $10 which is not returnable, and by full payment of the first year's rental at the rate of 25 cents per acre or fraction thereof but no less than $20, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision. No specific form of application is required. In addition to the requirements of § 193.11 (a) (1) to (5) and (b), the application for a permit should be accompanied by a proposed plan and method for conducting prospecting or exploratory operations on the land setting forth the estimated cost of carrying out such proposed prospecting operations, and the diligence with which such operations will be prosecuted.

5. Section 193.23 is amended to read as follows:

§ 193.23 Extension, relinquishment, cancellation, or termination of permit; availability of lands for further application where a permit is canceled, relinquished or terminated.

(a) Coal permits may be extended by an authorized officer of the Bureau of Land Management for a period of two years if he finds, after consultation with the Mining Supervisor of the Geological Survey, that the permittee has been unable, with reasonable diligence, to determine the existence or workability of coal deposits covered by the permit and desires to prosecute further prospecting or exploration, or for other reasons warranting such an extension. An application for extension must be filed in duplicate within 90 days prior to expiration of the permit and must be accompanied by the third year's rental and a $10 filing fee, which is not returnable. The application must disclose the reasons additional time is considered necessary to complete prospecting work. Extension will be limited to such period, not to exceed the two years, as may be determined to be allowable under the circumstances in each particular case. If an application for extension is not filed within the specified period, the permit will expire without notice to the permittee and the lands if otherwise available shall be subject to filing of new applications for coal permits.

(b) The permittee may relinquish the entire permit acreage or any portion thereof. A partial relinquishment must

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[1] The rule of approximation applies to applications for leases or prospecting permits only where elimination of the smallest legal subdivision involved would result in a deficiency of area under 2,560 acres greater than the excess over 2,560 acres resulting from the inclusion of such subdivision.

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Circular Distribution List

specifically describe the lands surrendered and the exact area thereof. A relinquishment must be filed in duplicate in the proper land office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the permittee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the permit lands in accordance with the regulations and terms of the permit.

(c) Except as provided for in subparagraph (1) of this paragraph, if a permittee fails to comply with the general regulations in force at the date of the permit, or defaults with respect to any of the terms or stipulations of the permit, and such failure or default continues for 30 days after service of written notice thereof by the Government, the permit may be canceled. A waiver of any particular cause for cancellation shall not prevent the cancellation of the permit for any other cause, or for the same cause occurring at any other time.

(1) Any prospecting permit shall terminate automatically if the permittee fails to pay the rental on or before the anniversary date of the permit. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely.

(2) The termination of the permit for failure to pay the rental must be noted on the official records of the proper land office. Until such notation is made, the lands covered by the permit shall not be available for filing of any other coal permit applications. Applications for such permits filed prior to such notation will be rejected.

(d) Where lands embraced in a cancelled or relinquished permit are not withdrawn from leasing, such lands shall become available for the filing of new permit applications immediately upon notation on the official status records of the cancellation or relinquishment of the permit. Even if the cancellation or relinquishment has not been noted, the lands formerly covered by the permit shall likewise become available for the filing of new applications on the date which would have marked the end of the primary or extended term of the permit except for the cancellation or relinquishment.

6. Paragraph (a) of § 194.3 is amended to read as follows:

§ 194.3 Area and limitation on holdings.

(a) A lease or permit may not exceed 2,560 acres, except where the rule of approximation[1] applies. The lands in the lease or permit shall be in reasonably compact form entirely within an area of six miles square or within an area not exceeding six surveyed or protracted sections in length or width. No person, association, or corporation may hold at one time in any one state potassium permits exceeding 51,200 acres, and except as hereinafter provided, potassium leases exceeding 25,600 acres in one or more mining units, whether directly through the ownership of such permits or leases or interests therein and applications, therefor, or indirectly as a member of an association or as a stockholder of a corporation holding such permits or leases, or interests therein and applications therefor. In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease or permit shall be such party's proportionate part of the total lease and permit acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage except that no person shall be charged with his prorata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than ten percent of the stock or other instruments of ownership or control of such association or corporation.

7. Section 194.8 is amended to change the heading and the present text to read as follows:

§ 194.8 Application for permit; permit rental.

(a) An application for a permit must be filed in duplicate in the appropriate land office. Each application must be accompanied by a filing fee of $10 which is not returnable, and by full payment of the first year's rental in the amount specified in paragraph (b) of this section, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision. No specific form of application is required, but the application should include the information and evidence set forth in §§ 194.4 and 194.17(a) (1) and (2).

(b) A permittee must pay an annual rental of 25 cents an acre or fraction thereof covered by his permit, but not less than $20 per year.

§ 194.9 [Amendment]

8. Footnote 1 referred to in § 194.9 is renumbered Footnote 2.

9. Section 194.12 is amended to read as follows:

§ 194.12 Relinquishment, cancellation or termination of permit; availability of lands for further application where a permit is canceled, relinquished or terminated.

(a) A permittee may relinquish the entire permit acreage or any portion thereof. A partial relinquishment must describe the lands surrendered and the exact area thereof. A relinquishment must be filed in duplicate in the appropriate land office. Upon its acceptance, it will be effective as of the date of its filing, subject to the continued obligation of the permittee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the permit lands in accordance with the regulations and terms of the permit.

(b) Except as provided in subparagraph (1) of this paragraph, if a permittee fails to comply with the general regulations in force at the date of the permit, or defaults with respect to any of the terms or stipulations of the permit, and such failure or default continues for 30 days after service of written notice thereof by the Government then the permit may be canceled. A waiver of any particular cause for cancellation shall not prevent the cancellation of the permit for any other cause, or for the same cause occurring at any other time.

(1) Any prospecting permit shall terminate automatically if the permittee fails to pay the rental on or before the anniversary date of the permit. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely.

(2) The termination of the permit for failure to pay rental must be noted on the official records of the appropriate

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[1] The rule of approximation applies to applications for leases or prospecting permits only where elimination of the smallest legal subdivision involved would result in a deficiency of area under 2,560 acres greater than the excess over 5,560 area resulting from the inclusion of such subdivision.

land office. Until such notation is made, the lands covered by the permit shall not be available for further filing of applications for potassium permit. Applications for such permits filed prior to such notation will be rejected.

(c) Where lands embraced in a canceled or relinquished permit are not withdrawn from leasing, such lands shall become available for the filing of new permit applications immediately upon notation on the official status records of the cancellation or relinquishment of the permit. Even if the cancellation or relinquishment has not been noted, the lands formerly covered by the permit shall likewise become available for the filing of new applications on the date which would have marked the end of the primary or extended term of the permit except for the cancellation or relinquishment.

§ 194.16 [Amendment]

10. Footnote 2 referred to in § 194.16 is renumbered Footnote 2a.

11. Section 196.10 is amended to read as follows:

§ 196.10 Relinquishment, cancellation or termination of permit; availability of lands for further application where a permit is canceled, relinquished or terminated.

(a) A permittee may relinquish the entire permit acreage or any portion thereof. A partial relinquishment must describe the lands surrendered and the exact area thereof. A relinquishment must be filed in duplicate in the proper land office. Upon its acceptance it will be effective as of the date it is filed, subject to the continued obligation of the permittee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the permit lands in accordance with the regulations and terms of the permit.

(b) Except as provided for in subparagraph (1) of this paragraph, if a permittee fails to comply with the general regulations in force at the date of the permit, and such failure or default continues for 30 days after service of written notice thereof by the Government, the permit may be canceled. A waiver of any particular cause for cancellation shall not prevent the cancellation of the permit for any other cause, or for the same cause occurring at any other time.

(1) Any prospecting permit shall terminate automatically if the permittee fails to pay the rental at the time specified in § 196.7. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely.

(2) The termination of the permit for failure to pay rental must be noted on the official records of the proper land office. Until such notation is made, the lands covered by the permit shall not be available for filing of further applications for phosphate prospecting permits. Applications for such permits filed prior to such notation will be rejected.

(c) Where lands embraced in a cancelled or relinquished permit are not withdrawn from leasing, such lands shall become available for the filing of new permit applications immediately upon notation on the official status records of the cancellation or relinquishment of the permit. Even if the cancellation or relinquishment has not been noted, the lands formerly covered by the permit shall likewise become available for the filing of new applications on the date which would have marked the end of the primary or extended term of the permit except for the cancellation or relinquishment.

STEWART L. UDALL,
Secretary of the Interior.

FEBRUARY 8, 1963.

[F.R. Doc. 63-1662; Filed, Feb. 14, 1963; 8:47 a.m.]

Rep'd by C-2145

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER E—GRAZING

[Circular 2097]

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Fees, Time of Payment, and Refund

1. Paragraph (b) of § 161.8 is amended to read as follows:

§ 161.8 Fees; time of payment; refunds.

* * * * *

(b) *Licenses and permits; rates.* (1) Each regular licensee or permittee, and holder of a nonrenewable license will be charged fees, consisting of a grazing fee for use of the range and a range improvement fee, for the animal unit months authorized by the license or permit, at a rate per animal unit month. All billing shall be issued in accordance with the rates prescribed in subparagraph (2) of this paragraph. All livestock 6 months of age or over allowed on the Federal range will be considered at any point of time during the grazing period as a part of the total number for which a license or permit has been issued. No fees will be charged for livestock under 6 months of age. Range improvement fees may vary in accordance with the character or requirements of the various districts or portions thereof. Grazing fees may differ in any district or unit thereof in which the grazing capacity of the Federal range is increased by reason of the addition of land not owned by the United States, or by reason of a cooperative agreement or memorandum of understanding between the Bureau of Land Management, and any State or Federal agency, or any person, association, or corporation. A minimum annual charge of $10 will be made on all regular licenses or permits, and nonrenewable licenses.

(2)(i) The fee or fees for any fee year, beginning on March 1, will be established by the Secretary at a rate which is equivalent to a specified percentage, to be fixed by the Secretary, of the average of the prices per pound of beef and lamb, rounded to the nearest whole cent, which was paid to growers during the preceding calendar year in the markets of the 11 Western States, as determined by the Secretary based upon market prices as reported by the Department of Agriculture.

(ii) The fee for any fee year may be changed by the Secretary from that of the preceding year by fixing a new specified percentage of the average of the prices per pound of beef and lamb. The fee for any fee year shall, in any event, be adjusted by the Secretary, in addition to any percentage adjustment that may be made, to conform to changes in market price conditions whenever in the preceding calendar year there is a change in the average of such prices, rounded off to the nearest whole cent, of 5 cents or more above or below the corresponding average for the preceding year.

(iii) The fee or fees established by the Secretary for any fee year, including announcement of the portion thereof to be credited to the range improvement fund, will be published as a notice in the FEDERAL REGISTER. All regular billings shall be issued in accordance with the rate or rates published in the notice.

STEWART L. UDALL,
Secretary of the Interior.

FEBRUARY 12, 1963.

[F.R. Doc. 63-1600; Filed, Feb. 12, 1963; 10:46 a.m.]

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Circular Distribution List

[illegible]

Repl. by C-2145

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER H—GRAZING

[Circular 2097]

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Fees, Time of Payment, and Refund

1. Paragraph (b) of § 161.8 is amended to read as follows:

§ 161.8 Fees; time of payment; refunds.

* * * * *

(b) *Licenses and permits; rates.* (1) Each regular licensee or permittee, and holder of a nonrenewable license will be charged fees, consisting of a grazing fee for use of the range and a range improvement fee, for the animal unit months authorized by the license or permit, at a rate per animal unit month. All billing shall be issued in accordance with the rates prescribed in subparagraph (2) of this paragraph. All livestock 6 months of age or over allowed on the Federal range will be considered at any point of time during the grazing period as a part of the total number for which a license or permit has been issued. No fees will be charged for livestock under 6 months of age. Range improvement fees may vary in accordance with the character or requirements of the various districts or portions thereof. Grazing fees may differ in any district or unit thereof in which the grazing capacity of the Federal range is increased by reason of the addition of land not owned by the United States, or by reason of a cooperative agreement or memorandum of understanding between the Bureau of Land Management, and any State or Federal agency, or any person, association, or corporation. A minimum annual charge of $10 will be made on all regular licenses or permits, and nonrenewable licenses.

(2) (i) The fee or fees for any fee year, beginning on March 1, will be established by the Secretary at a rate which is equivalent to a specified percentage, to be fixed by the Secretary, of the average of the prices per pound of beef and lamb, rounded to the nearest whole cent, which was paid to growers during the preceding calendar year in the markets of the 11 Western States, as determined by the Secretary based upon market prices as reported by the Department of Agriculture.

(ii) The fee for any fee year may be changed by the Secretary from that of the preceding year by fixing a new specified percentage of the average of the prices per pound of beef and lamb. The fee for any fee year shall, in any event, be adjusted by the Secretary, in addition to any percentage adjustment that may be made, to conform to changes in market price conditions whenever in the preceding calendar year there is a change in the average of such prices, rounded off to the nearest whole cent, of 2 cents or more above or below the corresponding average for the preceding year.

(iii) The fee or fees established by the Secretary for any fee year, including announcement of the portion thereof to be credited to the range improvement fund, will be published as a notice in the FEDERAL REGISTER. All regular billings shall be issued in accordance with the rate or rates prescribed in the notice.

STEWART L. UDALL,
Secretary of the Interior.

FEBRUARY 12, 1963

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

[Circular 2098]

PART 250—PUBLIC SALES

Effect of Application and Award of Bid

Section 250.5 is amended to read as follows:

§ 250.5 Effect of application and award of bid.

(a) The filing of an application in conformity with the regulations in this part will not segregate the lands applied for from other applications under the public land laws or defeat a prior valid right initiated under any such law.

(b) Until the issuance of a cash certificate, the authorized officer may at any time determine that the lands should not be sold: *Provided,* That if the high bid is not less than the fair market value of the land on the date of sale, as such date is specified in the public notice, appreciation or depreciation in value of the lands thereafter will not alone be a basis for such determination. All public notices of offers at public sale of lands under the regulations of this part will reserve the right of the authorized officer to reject any and all bids prior to the time of issuance of final certificate for the lands. Sales will not be consummated when, for example:

(1) Circumstances reveal that the highest bid otherwise acceptable is less than the fair market value of the land on the date of the sale set in the public notice thereof, or

(2) An appropriate public requirement for the lands is identified subsequent to the public notice, or

(3) Collusive or other activities have hindered or restrained free and open bidding.

(c) The applicant or any bidder has no contractual or other rights as against the United States, and no action taken will create any contractual or other obligations of the United States until the cash certificate is issued.

(d) The person who is declared by the authorized officer to be the purchaser shall be bound by his bid and the regulations in this part to complete the purchase in accordance therewith unless his bid is rejected or he is released therefrom by the authorized officer.

STEWART L. UDALL,
Secretary of the Interior.

FEBRUARY 13, 1963.

[F.R. Doc. 63-1826; Filed, Feb. 19, 1963; 8:45 a.m.]

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This Circular replaces Circular 2095.

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

[Circular 2099]

PART 256—GIFTS OF LAND

Part 256 is revised in its entirety to read as follows:

Sec.
256.1 Statutory authority.
256.2 Program.
256.3 Offer to convey.
256.4 Acceptance of offer.
256.5 Deed of conveyance.
256.6 Status of lands.

Authority: §§ 256.1 to 256.6 issued under sec. 2, 48 Stat. 1270, 43 U.S.C. 315a, and R.S. § 2478, as amended; 43 U.S.C. 1201. Interpret or apply sec. 8, 48 Stat. 1272, as amended; 43 U.S.C. 315g.

§ 256.1 Statutory authority.

(a) Section 8(a) of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, authorizes the Secretary of the Interior to accept on behalf of the United States, any lands within or without the exterior boundaries of a grazing district as a gift, where such action will promote the purposes of a district or facilitate the administration of the public lands.

(b) Section 103(a) of the Public Land Administration Act of July 14, 1960 (74 Stat. 506; 43 U.S.C. 1364), authorizes the Secretary to accept contributions or donations of real or mixed property, including rights-of-way, for the improvement, management, use and protection of the public lands and their resources administered by the Bureau of Land Management.

§ 256.2 Program.

The Secretary of the Interior will accept as a gift, lands, with or without improvements thereon, with or without limitations or conditions as to the future use and disposition thereof, in fee simple or any interest less than fee, where possession of such land or interest will promote the purposes of a grazing district or facilitate the administration or contribute to the improvement, management, use or protection of public lands and their resources. The authority of the Secretary is discretionary and acceptance of offers rests, among other things, upon a determination that the public interest will be served thereby.

§ 256.3 Offer to convey.

(a) Any person desiring to make a gift, contribution, or donation of land or interest in land to the United States should submit an offer to convey and transfer said property to the United States voluntarily. The offer should be transmitted to the proper land office in the State in which the lands are located, or if the lands are in a State where there is no land office, to the Bureau of Land Management in Washington, D.C., except that for lands in North Dakota and South Dakota, the proper land office is at Billings, Montana; for lands in Nebraska or Kansas, the proper land office is at Cheyenne, Wyoming, and for lands in Oklahoma, the proper land office is at Santa Fe, New Mexico.

(b) The offer should designate the statute under which the gift is to be made and should describe the lands by legal subdivisions of the public land surveys, if possible, with a description of any permanent improvements fixed to the land. Any limitations on title should be fully detailed and any conditions as to future use and disposition of the land should be set forth.

(c) The offer should be accompanied by a statement showing that the offeror is the record owner in fee of lands so offered, free and clear of all encumbrances; that there are no persons claiming the land adversely to the offeror; whether there are any unpaid taxes or assessments levied or assessed against the offered land or that could operate as a lien thereon; whether there is a tax or assessment due on such lands or that could operate as a lien thereon, but which tax or assessment is not yet payable; and that there are no unredeemed tax deeds outstanding against the lands.

§ 256.4 Acceptance of offer.

Where the authorized officer finds that acceptance of the offered lands is in consonance with the program set forth in § 256.2 of this chapter, he shall advise the offeror of the acceptance of the offer and request the offeror to submit a voluntary deed of conveyance to the United States of the land offered, together with an affidavit that the offeror has not conveyed or encumbered the land in any manner from the time of making the offer up to and including the date of recordation of the deed.

§ 256.5 Deed of conveyance.

The deed of conveyance to the United States must be executed, acknowledged, and duly recorded in accordance with the laws of the State in which the lands are situated. The deed should recite that it is made "as a gift," as authorized by statute appropriately designated. Where such deed is made by an individual, it must show whether the person making the conveyance is married or single. If married, the spouse of the donor must join in the execution and acknowledgment of the deed in such manner as to bar effectually any right of curtesy or dower, or any claim whatsoever to land conveyed, or it must be fully and satisfactorily shown that under the laws of the State in which the land conveyed is situated, such spouse has no interest, present or prospective, which makes his or her joining in the deed of conveyance necessary. Where the deed of conveyance is by a corporation, the order or direction of the board of directors or other governing body should be recited in the deed, and a copy thereof must accompany the instrument of transfer. Both the deed and the instrument must bear the impression of the corporate seal.

§ 256.6 Status of lands.

Upon acceptance of the deed of conveyance, the lands or interests so conveyed will become property of the United States but will not become subject to applicable land and mineral laws of this title unless and until an order to that effect is issued by the authorized officer.

Stewart L. Udall,
Secretary of the Interior.

March 18, 1963.

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